

AMENDMENT NO.

CAL. NO.

[STAFF WORKING DRAFT]

May 25, 2006

Purpose: To modify the bill as reported by the Committee.

**IN THE SENATE OF THE UNITED STATES**—109TH Cong., 2ND Sess.

**S. 2012**, 109TH Congress, 2ND Session

MAY ———, 2006

(       ) Referred to the Committee on ————— and  
ordered to be printed

(       ) Ordered to lie on the table and to be printed

INTENDED to be proposed by Mr. —————

Viz:

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Magnuson-Stevens Fishery Conservation and Manage-  
4 ment Reauthorization Act of 2006”.

5 (b) TABLE OF CONTENTS.—The table of contents for  
6 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Amendment of Magnuson-Stevens Fishery Conservation and Manage-  
ment Act.

Sec. 3. Changes in findings and definitions.

Sec. 4. Highly migratory species.

Sec. 5. Total allowable level of foreign fishing.

Sec. 6. Western pacific sustainable fisheries fund.

Sec. 7. Authorization of appropriations.

TITLE I—CONSERVATION AND MANAGEMENT

- Sec. 101. Cumulative impacts.
- Sec. 102. Caribbean Council jurisdiction.
- Sec. 103. Regional fishery management councils.
- Sec. 104. Fishery management plan requirements.
- Sec. 105. Fishery management plan discretionary provisions.
- Sec. 106. Limited access privilege programs.
- Sec. 107. Environmental review process.
- Sec. 108. Emergency regulations.
- Sec. 109. Western Pacific community development.
- Sec. 110. Western Alaska Community Development Quota Program.
- Sec. 111. Secretarial action on state groundfish fishing.
- Sec. 112. Joint enforcement agreements.
- Sec. 113. Transition to sustainable fisheries.
- Sec. 114. Regional coastal disaster assistance, transition, and recovery program.
- Sec. 115. Fishery finance program hurricane assistance.
- Sec. 116. Shrimp fisheries hurricane assistance program.
- Sec. 117. Bycatch reduction engineering program.
- Sec. 118. Community-based restoration program for fishery and coastal habitats.
- Sec. 119. Prohibited acts.
- Sec. 120. Enforcement.

TITLE II—INFORMATION AND RESEARCH

- Sec. 201. Recreational fisheries information.
- Sec. 202. Collection of information.
- Sec. 203. Access to certain information.
- Sec. 204. Cooperative research and management program.
- Sec. 205. Herring study.
- Sec. 206. Restoration study.
- Sec. 207. Western Pacific fishery demonstration projects.
- Sec. 208. Fisheries conservation and management fund.
- Sec. 209. Use of fishery finance program and capital construction fund for sustainable purposes.
- Sec. 210. Regional ecosystem research.
- Sec. 211. Deep sea coral research and technology program.
- Sec. 212. Impact of turtle excluder devices on shrimping.
- Sec. 213. Hurricane effects on shrimp and oyster fisheries and habitats.
- Sec. 214. Northwest Pacific fisheries conservation.
- Sec. 215. New England groundfish fishery.
- Sec. 216. Report on council management coordination.

TITLE III—OTHER FISHERIES STATUTES

- Sec. 301. Amendments to Northern Pacific Halibut Act.
- Sec. 302. Reauthorization of other fisheries acts.

TITLE IV—INTERNATIONAL

- Sec. 401. International monitoring and compliance.
- Sec. 402. Finding with respect to illegal, unreported, and unregulated fishing.
- Sec. 403. Action to end illegal, unreported, or unregulated fishing and reduce bycatch of protected marine species.
- Sec. 405. Reauthorization of Atlantic Tunas Convention Act.

- Sec. 406. International overfishing and domestic equity.
- Sec. 407. U.S. catch history.
- Sec. 408. Secretarial representative for international fisheries.

TITLE V—IMPLEMENTATION OF WESTERN AND CENTRAL PACIFIC FISHERIES  
CONVENTION

- Sec. 501. Short title.
- Sec. 502. Definitions.
- Sec. 503. Appointment of United States commissioners.
- Sec. 504. Authority and responsibility of the Secretary of State.
- Sec. 505. Rulemaking authority of the Secretary of Commerce.
- Sec. 506. Enforcement.
- Sec. 507. Prohibited acts.
- Sec. 508. Cooperation in carrying out convention.
- Sec. 509. Territorial participation.
- Sec. 510. Exclusive economic zone notification.
- Sec. 511. Authorization of appropriations.

TITLE VI—PACIFIC WHITING

- Sec. 601. Short title.
- Sec. 602. Definitions.
- Sec. 603. United States representation on joint management committee.
- Sec. 604. United States representation on the scientific review group.
- Sec. 605. United States representation on joint technical committee.
- Sec. 606. United States representation on advisory panel.
- Sec. 607. Responsibilities of the Secretary.
- Sec. 608. Rulemaking.
- Sec. 609. Administrative Matters.
- Sec. 610. Enforcement.
- Sec. 611. Authorization of appropriations.

**1 SEC. 2. AMENDMENT OF MAGNUSON-STEVENSON FISHERY**  
**2 CONSERVATION AND MANAGEMENT ACT.**

3       Except as otherwise expressly provided, whenever in  
4 this Act an amendment or repeal is expressed in terms  
5 of an amendment to, or repeal of, a section or other provi-  
6 sion, the reference shall be considered to be made to a  
7 section or other provision of the Magnuson-Stevens Fish-  
8 ery Conservation and Management Act (16 U.S.C. 1801  
9 et seq.).

1 **SEC. 3. CHANGES IN FINDINGS AND DEFINITIONS.**

2 (a) ECOSYSTEMS.—Section 2(a) (16 U.S.C. 1801(a))  
3 is amended by adding at the end the following:

4 “(11) A number of the Fishery Management  
5 Councils have demonstrated significant progress in  
6 integrating ecosystem considerations in fisheries  
7 management using the existing authorities provided  
8 under this Act.”.

9 (b) IN GENERAL.—Section 3 (16 U.S.C. 1802) is  
10 amended—

11 (1) by inserting after paragraph (6) the fol-  
12 lowing:

13 “(6A) The term ‘confidential information’  
14 means—

15 “(A) trade secrets; or

16 “(B) commercial or financial information  
17 the disclosure of which is likely to result in sub-  
18 stantial harm to the competitive position of the  
19 person who submitted the information to the  
20 Secretary.”;

21 (2) by inserting after paragraph (13) the fol-  
22 lowing:

23 “(13A) The term ‘regional fishery association’  
24 means an association formed for the mutual benefit  
25 of members—

1           “(A) to meet social and economic needs in  
2           a region or subregion; and

3           “(B) comprised of persons engaging in the  
4           harvest or processing of fishery resources in  
5           that specific region or subregion or who other-  
6           wise own or operate businesses substantially de-  
7           pendent upon a fishery.”;

8           (3) by inserting after paragraph (20) the fol-  
9           lowing:

10          “(20A) The term ‘import’—

11           “(A) means to land on, bring into, or in-  
12           troduce into, or attempt to land on, bring into,  
13           or introduce into, any place subject to the juris-  
14           diction of the United States, whether or not  
15           such landing, bringing, or introduction con-  
16           stitutes an importation within the meaning of  
17           the customs laws of the United States; but

18           “(B) does not include any activity de-  
19           scribed in subparagraph (A) with respect to fish  
20           caught in the exclusive economic zone or by a  
21           vessel of the United States.”;

22          (4) by inserting after paragraph (23) the fol-  
23          lowing:

24          “(23A) The term ‘limited access privilege’—

1           “(A) means a Federal permit, issued as  
2           part of a limited access system under section  
3           303A to harvest a quantity of fish expressed by  
4           a unit or units representing a portion of the  
5           total allowable catch of the fishery that may be  
6           received or held for exclusive use by a person;  
7           and

8           “(B) includes an individual fishing quota;  
9           but

10           “(C) does not include community develop-  
11           ment quotas as described in section 305(i).

12           “(23B) The term ‘limited access system’ means  
13           a system that limits participation in a fishery to  
14           those satisfying certain eligibility criteria or require-  
15           ments contained in a fishery management plan or  
16           associated regulation.”; and

17           (5) by inserting after paragraph (27) the fol-  
18           lowing:

19           “(27A) The term ‘observer information’ means  
20           any information collected, observed, retrieved, or cre-  
21           ated by an observer or electronic monitoring system  
22           pursuant to authorization by the Secretary, or col-  
23           lected as part of a cooperative research initiative, in-  
24           cluding fish harvest or processing observations, fish  
25           sampling or weighing data, vessel logbook data, ves-

1        sel or processor-specific information (including any  
2        safety, location, or operating condition observations),  
3        and video, audio, photographic, or written docu-  
4        ments.”.

5        (c) REDESIGNATION.—Paragraphs (1) through (45)  
6        of section 3 (16 U.S.C. 1802), as amended by subsection  
7        (a), are redesignated as paragraphs (1) thorough (51), re-  
8        spectively.

9        (d) CONFORMING AMENDMENTS.—

10            (1) The following provisions of the Act are  
11            amended by striking “an individual fishing quota”  
12            and inserting “a limited access privilege”:

13                    (A) Section 402(b)(1)(D) (16 U.S.C.  
14                    1881a(b)(1)(D)).

15                    (B) Section 407(a)(1)(D) and (c)(1) (16  
16                    U.S.C. 1883(a)(1)(D); (c)(1)).

17            (2) The following provisions of the Act are  
18            amended by striking “individual fishing quota” and  
19            inserting “limited access privilege”:

20                    (A) Section 304(c)(3) (16 U.S.C.  
21                    1854(c)(3)).

22                    (B) Section 304(d)(2)(A)(i) (16 U.S.C.  
23                    1854(d)(2)(A)(i)).

24                    (C) Section 407(c)(2)(B) (16 U.S.C.  
25                    1883(c)(2)(B)).

1           (3) Section 305(h)(1) (16 U.S.C. 1855(h)(1)) is  
2       amended by striking “individual fishing quotas,”  
3       and inserting “limited access privileges,”.

4   **SEC. 4. HIGHLY MIGRATORY SPECIES.**

5       Section 102 (16 U.S.C. 1812) is amended—

6           (1) by inserting “(a) IN GENERAL.—” before  
7       “The”; and

8           (2) by adding at the end the following:

9       “(b) TRADITIONAL PARTICIPATION.—In managing  
10   any fisheries under an international fisheries agreement  
11   to which the United States is a party, the appropriate  
12   Council or Secretary shall take into account the traditional  
13   participation in the fishery, relative to other nations, by  
14   fishermen of the United States on fishing vessels of the  
15   United States.

16       “(c) PROMOTION OF STOCK MANAGEMENT.—If a rel-  
17   evant international fisheries organization does not have a  
18   process for developing a formal plan to rebuild a depleted  
19   stock, an overfished stock, or a stock that is approaching  
20   a condition of being overfished, the provisions of this Act  
21   in this regard shall be communicated to and promoted by  
22   the United States in the international or regional fisheries  
23   organization.”.

24   **SEC. 5. TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING.**

25       Section 201(d) (16 U.S.C. 1821(d)) is amended—



1 (1) by striking “shall be” and inserting “is”;

2 (2) by striking “will not” and inserting “can-  
3 not, or will not,”;

4 (3) by inserting after “Act.” the following: “Al-  
5 locations of the total allowable level of foreign fish-  
6 ing are discretionary, except that the total allowable  
7 level shall be zero for fisheries determined by the  
8 Secretary to have adequate or excess harvest capac-  
9 ity.”

10 **SEC. 6. WESTERN PACIFIC SUSTAINABLE FISHERIES FUND.**

11 Section 204(e) (16 U.S.C. 1824(e)(7)) is amended—

12 (1) by inserting “and any funds or contribu-  
13 tions received in support of conservation and man-  
14 agement objectives under a marine conservation  
15 plan” after “agreement” in paragraph (7); and

16 (2) by inserting after “paragraph (4).” in para-  
17 graph (8) the following: “In the case of violations by  
18 foreign vessels occurring within the exclusive eco-  
19 nomic zones off Midway Atoll, Johnston Atoll, King-  
20 man Reef, Palmyra Atoll, Jarvis, Howland, Baker,  
21 and Wake Islands, amounts received by the Sec-  
22 retary attributable to fines and penalties imposed  
23 under this Act, shall be deposited into the Western  
24 Pacific Sustainable Fisheries Fund established  
25 under paragraph (7) of this subsection.”.

1   **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

2       Section 4 (16 U.S.C. 1803) is amended to read as  
3 follows:

4   **“SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

5       “There are authorized to be appropriated to the Sec-  
6 retary to carry out the provisions of this Act—

7           “(1) \$328,004,000 for fiscal year 2006;

8           “(2) \$337,844,000 for fiscal year 2007;

9           “(3) \$347,684,000 for fiscal year 2008;

10          “(4) \$357,524,000 for fiscal year 2009;

11          “(5) \$367,364,000 for fiscal year 2010;

12          “(6) \$377,204,000 for fiscal year 2011; and

13          “(7) \$387,044,000 for fiscal year 2012.”.

14   **TITLE I—CONSERVATION AND**  
15       **MANAGEMENT**

16   **SEC. 101. CUMULATIVE IMPACTS.**

17       (a) NATIONAL STANDARDS.—Section 301(a)(8) (16  
18 U.S.C. 1851(a)(8)) is amended by inserting “by utilizing  
19 economic and social data that meet the requirements of  
20 paragraph (2),” after “fishing communities”.

21       (b) CONTENTS OF PLANS.—Section 303(a)(9) (16  
22 U.S.C. 1853(a)(9)) is amended by striking “describe the  
23 likely effects, if any, of the conservation and management  
24 measures on—” and inserting “analyze the likely effects,  
25 if any, including the cumulative economic and social im-

1 pacts, of the conservation and management measures on,  
2 and possible mitigation measures for—”.

3 **SEC. 102. CARIBBEAN COUNCIL JURISDICTION.**

4 Section 302(a)(1)(D) (16 U.S.C. 1852(a)(1)(D)) is  
5 amended by inserting “and of commonwealths, territories,  
6 and possessions of the United States in the Caribbean  
7 Sea” after “seaward of such States”.

8 **SEC. 103. REGIONAL FISHERY MANAGEMENT COUNCILS.**

9 (a) TRIBAL ALTERNATE ON PACIFIC COUNCIL.—Sec-  
10 tion 302(b)(5) (16 U.S.C. 1852(b)(5)) is amended by add-  
11 ing at the end thereof the following:

12 “(D) The tribal representative appointed under sub-  
13 paragraph (A) may designate as an alternate, during the  
14 period of the representative’s term, an individual knowl-  
15 edgeable concerning tribal rights, tribal law, and the fish-  
16 ery resources of the geographical area concerned.”.

17 (b) SCIENTIFIC AND STATISTICAL COMMITTEES.—  
18 Section 302(g) (16 U.S.C. 1852(g)) is amended—

19 (1) by striking so much of subsection (g) as  
20 precedes paragraph (2) and inserting the following:

21 “(g) COMMITTEES AND ADVISORY PANELS.—

22 “(1)(A) Each Council shall establish, maintain,  
23 and appoint the members of a scientific and statis-  
24 tical committee to assist it in the development, col-  
25 lection, evaluation, and peer review of such statis-

1 tical, biological, economic, social, and other scientific  
2 information as is relevant to such Council's develop-  
3 ment and amendment of any fishery management  
4 plan.

5 “(B) Each scientific and statistical committee  
6 shall provide its Council ongoing scientific advice for  
7 fishery management decisions, including rec-  
8 ommendations for acceptable biological catch or  
9 maximum sustainable yield, and reports on stock  
10 status and health, bycatch, habitat status, socio-eco-  
11 nomic impacts of management measures, and sus-  
12 tainability of fishing practices.

13 “(C) Members appointed by the Councils to the  
14 scientific and statistical committees shall be Federal  
15 employees, State employees, academicians, or inde-  
16 pendent experts with strong scientific or technical  
17 credentials and experience.

18 “(D) The Secretary and each Council may es-  
19 tablish a peer review process for that Council for sci-  
20 entific information used to advise the Council about  
21 the conservation and management of the fishery.  
22 The review process, which may include existing com-  
23 mittees or panels, is deemed to satisfy the require-  
24 ments of the guidelines issued pursuant to section  
25 515 of the Treasury and General Government Ap-

1        appropriations Act for Fiscal year 2001 (Public Law  
2        106–554—Appendix C; 114 Stat. 2763A-153).

3            “(E) In addition to the provisions of section  
4        302(f)(7), the Secretary may pay a stipend to mem-  
5        bers of the scientific and statistical committees or  
6        advisory panels who are not employed by the Federal  
7        government or a State marine fisheries agency.”;

8            (2) by striking “other” in paragraph (2); and

9            (3) by resetting the left margin of paragraphs  
10        (2) through (5) 2 ems from the left.

11        (c) COUNCIL FUNCTIONS.—Section 302(h) (16  
12        U.S.C. 1852(h)) is amended—

13            (1) by striking “authority, and” in paragraph  
14        (5) and inserting “authority,”;

15            (2) by redesignating paragraph (6) as para-  
16        graph (7); and

17            (3) by inserting after paragraph (5) the fol-  
18        lowing:

19            “(6) develop annual catch limits for each of its  
20        managed fisheries after considering the rec-  
21        ommendations of its scientific and statistical com-  
22        mittee or the peer review process established under  
23        subsection (g); and”.

24        (d) REGULAR AND EMERGENCY MEETINGS.—Section  
25        302(i)(2)(C) (16 U.S.C. 1852(i)(2)(C)) is amended by

1 striking “published in local newspapers in the major fish-  
2 ing ports of the region (and in other major fishing ports  
3 having a direct interest in the affected fishery) and such  
4 notice may be given by such other means as will result  
5 in wide publicity.” and inserting “provided by any means  
6 that will result in wide publicity in the major fishing ports  
7 of the region (and in other major fishing ports having a  
8 direct interest in the affected fishery), except that e-mail  
9 notification and website postings alone are not suffi-  
10 cient.”.

11 (e) CLOSED MEETINGS.—Section 302(i)(3)(B) (16  
12 U.S.C. 1852(i)(3)(B)) is amended by striking “notify local  
13 newspapers in the major fishing ports within its region  
14 (and in other major, affected fishing ports,” and inserting  
15 “provide notice by any means that will result in wide pub-  
16 licity in the major fishing ports of the region (and in other  
17 major fishing ports having a direct interest in the affected  
18 fishery),”.

19 (f) TRAINING.—Section 302 (16 U.S.C. 1852) is  
20 amended by adding at the end the following:

21 “(k) COUNCIL TRAINING PROGRAM.—

22 “(1) TRAINING COURSE.—Within 6 months  
23 after the date of enactment of the Magnuson-Ste-  
24 vens Fishery Conservation and Management Reau-  
25 thorization Act of 2006, the Secretary, in consulta-

1       tion with the Councils and the National Sea Grant  
2       College Program, shall develop a training course for  
3       newly appointed Council members. The course may  
4       cover a variety of topics relevant to matters before  
5       the Councils, including—

6               “(A) fishery science and basic stock assess-  
7               ment methods;

8               “(B) fishery management techniques, data  
9               needs, and Council procedures;

10              “(C) social science and fishery economics;

11              “(D) tribal treaty rights and native cus-  
12              toms, access, and other rights related to West-  
13              ern Pacific indigenous communities;

14              “(E) legal requirements of this Act, includ-  
15              ing conflict of interest and disclosure provisions  
16              of this section and related policies;

17              “(F) other relevant legal and regulatory  
18              requirements, including the National Environ-  
19              mental Policy Act (42 U.S.C. 4321 et seq.);

20              “(G) public process for development of  
21              fishery management plans; and

22              “(H) other topics suggested by the Coun-  
23              cil.

24              “(2) MEMBER TRAINING.—The training course  
25              shall be available to both new and existing Council

1 members, and may be made available to committee  
2 or advisory panel members as resources allow.

3 “(l) COUNCIL COORDINATION COMMITTEE.—The  
4 Councils may establish a Council coordination committee  
5 consisting of the chairs, vice chairs, and executive direc-  
6 tors of each of the 8 Councils described in subsection  
7 (a)(1), or other Council members or staff, in order to dis-  
8 cuss issues of relevance to all Councils, including issues  
9 related to the implementation of this Act.”.

10 (g) PROCEDURAL MATTERS.—Section 302(i) (16  
11 U.S.C. 1852(i)) is amended—

12 (1) by striking “to the Councils or to the sci-  
13 entific and statistical committees or advisory panels  
14 established under subsection (g).” in paragraph (1)  
15 and inserting “to the Councils, the Council coordina-  
16 tion committee established under subsection (l), or  
17 to the scientific and statistical committees or other  
18 committees or advisory panels established under sub-  
19 section (g).”;

20 (2) by striking “of a Council, and of the sci-  
21 entific and statistical committee and advisory panels  
22 established under subsection (g):” in paragraph (2)  
23 and inserting “of a Council, of the Council coordina-  
24 tion committee established under subsection (l), and  
25 of the scientific and statistical committees or other



1 committees or advisory panels established under sub-  
2 section (g):”; and

3 (3) by inserting “the Council Coordination  
4 Committee established under subsection (1),” in  
5 paragraph (3)(A) after “Council,”; and

6 (4) by inserting “other committees,” in para-  
7 graph (3)(A) after “committee,”.

8 (h) CONFLICTS OF INTEREST.—Section 302(j) (16  
9 U.S.C. 1852(j)) is amended—

10 (1) by inserting “lobbying, advocacy,” after  
11 “processing,” in paragraph (2);

12 (2) by striking “jurisdiction.” in paragraph (2)  
13 and inserting “jurisdiction, or with respect to an in-  
14 dividual or organization with a financial interest in  
15 such activity.”;

16 (3) by striking subparagraph (B) of paragraph  
17 (5) and inserting the following:

18 “(B) be kept on file by the Council and made  
19 available on the Internet and for public inspection at  
20 the Council offices during reasonable hours; and”;  
21 and

22 (4) by adding at the end the following:

23 “(9) On January 1, 2008, and annually thereafter,  
24 the Secretary shall submit a report to the Senate Com-  
25 mittee on Commerce, Science, and Transportation and the

1 House of Representatives Committee on Resources on ac-  
2 tion taken by the Secretary and the Councils to implement  
3 the disclosure of financial interest and recusal require-  
4 ments of this subsection.”.

5 (i) GULF OF MEXICO FISHERIES MANAGEMENT  
6 COUNCIL.—Section 302(b)(2) (16 U.S.C. 1852(b)(2)) is  
7 amended—

8 (1) by redesignating subparagraph (D) as sub-  
9 paragraph (E); and

10 (2) by inserting after subparagraph (C) the fol-  
11 lowing:

12 “(D)(i) The Secretary shall appoint to the Gulf of  
13 Mexico Fisheries Management Council—

14 “(I) 5 representatives of the commercial fishing  
15 sector;

16 “(II) 5 representatives of the recreational fish-  
17 ing or charter fishing sectors; and

18 “(III) 1 other individual who is knowledgeable  
19 regarding the conservation and management of fish-  
20 eries resources in the jurisdiction of the Council.

21 “(ii) The Governor of a State submitting a list of  
22 names of individuals for appointment by the Secretary of  
23 Commerce to the Gulf of Mexico Fisheries Management  
24 Council under subparagraph (C) shall include—

1           “(I) at least 1 nominee each from the commer-  
2           cial, recreational, and charter fishing sectors; and

3           “(II) at least 1 other individual who is knowl-  
4           edgeable regarding the conservation and manage-  
5           ment of fisheries resources in the jurisdiction of the  
6           Council.

7           “(iii) Notwithstanding the requirements of  
8           302(b)(2)(C), if the Secretary determines that the list of  
9           names submitted by the Governor does not meet the re-  
10          quirements of clause (ii), the Secretary shall—

11          “(I) publish a notice in the Federal Register  
12          asking the residents of that State to submit the  
13          names and pertinent biographical data of individuals  
14          who would meet the requirement not met for ap-  
15          pointment to the Council; and

16          “(II) add the name of any qualified individual  
17          submitted by the public who meets the unmet re-  
18          quirement to the list of names submitted by the  
19          Governor.

20          “(iv) For purposes of clause (ii), an individual who  
21          owns or operates a fish farm outside of the United States  
22          shall not be considered to be a representative of the com-  
23          mercial fishing sector.

24          “(v) The requirements of subparagraph (D) shall ex-  
25          pire at the end of fiscal year 2012.”.

1 (j) REPORT AND RECOMMENDATIONS ON GULF  
2 COUNCIL AMENDMENT.—

3 (1) IN GENERAL.—Before August, 2011, the  
4 Secretary of Commerce, in consultation with the  
5 Gulf of Mexico Fisheries Management Council, shall  
6 analyze the impact of the amendment made by sub-  
7 section (i) and determine whether section  
8 302(b)(2)(D) of the Magnuson-Stevens Fishery Con-  
9 servation and Management Act (16 U.S.C.  
10 1852(b)(2)(D)) has resulted in a fair and balanced  
11 apportionment of the active participants in the com-  
12 mercial and recreational fisheries under the jurisdic-  
13 tion of the Council.

14 (2) REPORT.—By no later than August, 2011,  
15 the Secretary shall transmit a report to the Senate  
16 Committee on Commerce, Science, and Transpor-  
17 tation and the House of Representatives Committee  
18 on Resources setting forth the Secretary's findings  
19 and determination, including any recommendations  
20 for legislative or other changes that may be nec-  
21 essary to achieve such a fair and balanced appor-  
22 tionment, including whether to renew the authority.

23 **SEC. 104. FISHERY MANAGEMENT PLAN REQUIREMENTS.**

24 (a) IN GENERAL.—Section 303(a) (16 U.S.C.  
25 1853(a)) is amended—

1           (1) striking “and charter fishing” in paragraph  
2           (5) and inserting “charter fishing, and fish proc-  
3           essing”;

4           (2) by inserting “economic information nec-  
5           essary to meet the requirements of this Act,” in  
6           paragraph (5) after “number of hauls,”;

7           (3) by striking “fishery” the first place it ap-  
8           pears in paragraph (13) and inserting “fishery, in-  
9           cluding its economic impact,”;

10          (4) by striking “and” after the semicolon in  
11          paragraph (13);

12          (5) by striking “allocate” in paragraph (14)  
13          and inserting “allocate, taking into consideration the  
14          economic impact of the harvest restrictions or recov-  
15          ery benefits on the fishery participants in each sec-  
16          tor,”;

17          (6) by striking “fishery.” in paragraph (14)  
18          and inserting “fishery;”; and

19          (7) by adding at the end the following:

20          “(15) establish a mechanism for specifying an-  
21          nual catch limits in the plan (including a multiyear  
22          plan), implementing regulations, or annual specifica-  
23          tions, at a level such that optimum yield is not ex-  
24          ceeded in the fishery; and

1           “(16) establish a mechanism under which har-  
2       vests exceeding the specified annual catch limit (in-  
3       cluding the specified annual catch limit for a sector)  
4       shall be deducted in the following fishing year, or  
5       the next action in a multiyear specification that es-  
6       tablishes or adjusts annual catch limits (including  
7       those specified for that sector), and which may use  
8       the type of adjustment measures already relied on in  
9       the plan, unless sufficient information on the harvest  
10      level cannot be obtained in that timeframe, but the  
11      deduction shall occur not later than 3 fishing years  
12      after the close of the fishing year in which the over-  
13      age occurs.”.

14       (b) EFFECTIVE DATES; APPLICATION TO CERTAIN  
15 SPECIES.—The amendment made by subsection (a)(7)—

16           (1) shall take effect—

17               (A) in fishing year 2010 for fisheries de-  
18               termined by the Secretary to be subject to over-  
19               fishing; and

20               (B) in fishing year 2011 for all other fish-  
21               eries; and

22           (2) shall not apply to a fishery for species that  
23       have a life cycle of approximately 1 year unless the  
24       Secretary has determined the fishery is subject to  
25       overfishing.

1   **SEC. 105. FISHERY MANAGEMENT PLAN DISCRETIONARY**  
2                   **PROVISIONS.**

3           Section 303(b) (16 U.S.C. 1853(b)) is amended—

4                   (1) by inserting “(A)” after “(2)” in paragraph  
5           (2);

6                   (2) by inserting after paragraph (2) the fol-  
7           lowing:

8                   “(B) designate such zones in areas where deep  
9           sea corals are identified under section 408, to pro-  
10          tect deep sea corals from physical damage from fish-  
11          ing gear or to prevent loss or damage to such fishing  
12          gear from interactions with deep sea corals, after  
13          considering long-term sustainable uses of fishery re-  
14          sources in such areas; and

15                  “(C) with respect to any closure of an area  
16          under this Act that prohibits all fishing, ensure that  
17          such closure—

18                          “(i) is based on the best scientific informa-  
19          tion available;

20                          “(ii) includes criteria to assess the con-  
21          servation benefit of the closed area;

22                          “(iii) establishes a timetable for review of  
23          the closed area’s performance that is consistent  
24          with the purposes of the closed area; and

25                          “(iv) is based on an assessment of the ben-  
26          efits and impacts of the closure, including its

1 size, in relation to other management measures  
2 (either alone or in combination with such meas-  
3 ures), including the benefits and impacts of lim-  
4 iting access to: users of the area, overall fishing  
5 activity, fishery science, and fishery and marine  
6 conservation;”;

7 (3) by striking “fishery;” in paragraph (5) and  
8 inserting “fishery and take into account the dif-  
9 ferent circumstances affecting fisheries from dif-  
10 ferent States and ports, including distances to fish-  
11 ing grounds and proximity to time and area clo-  
12 sures;”;

13 (4) by striking paragraph (6) and inserting the  
14 following:

15 “(6) establish a limited access system for the  
16 fishery in order to achieve optimum yield if, in devel-  
17 oping such system, the Council and the Secretary  
18 take into account—

19 “(A) present participation in the fishery;

20 “(B) historical fishing practices in, and de-  
21 pendence on, the fishery;

22 “(C) the economics of the fishery;

23 “(D) the capability of fishing vessels used  
24 in the fishery to engage in other fisheries;



1 “(E) the cultural and social framework rel-  
2 evant to the fishery and any affected fishing  
3 communities;

4 “(F) the fair and equitable distribution of  
5 access privileges in the fishery; and

6 “(G) any other relevant considerations;”;

7 (5) by striking “(other than economic data)” in  
8 paragraph (7);

9 (6) by striking “and” after the semicolon in  
10 paragraph (11); and

11 (7) by redesignating paragraph (12) as para-  
12 graph (14) and inserting after paragraph (11) the  
13 following:

14 “(12) establish a process for complying with the  
15 National Environmental Policy Act (42 U.S.C. 4321  
16 et seq.) pursuant to section 304(h) of this Act;

17 “(13) include management measures in the  
18 plan to conserve target and non-target species and  
19 habitats, considering the variety of ecological factors  
20 affecting fishery populations; and”.

21 **SEC. 106. LIMITED ACCESS PRIVILEGE PROGRAMS.**

22 (a) IN GENERAL.—Title III (16 U.S.C. 1851 et seq.)  
23 is amended—

24 (1) by striking section 303(d); and

25 (2) by inserting after section 303 the following:

1   **“SEC. 303A. LIMITED ACCESS PRIVILEGE PROGRAMS.**

2           “(a) IN GENERAL.—After the date of enactment of  
3 the Magnuson-Stevens Fishery Conservation and Manage-  
4 ment Reauthorization Act of 2006, a Council may submit,  
5 and the Secretary may approve, for a fishery that is man-  
6 aged under a limited access system, a limited access privi-  
7 lege program to harvest fish if the program meets the re-  
8 quirements of this section.

9           “(b) NO CREATION OF RIGHT, TITLE, OR INTER-  
10 EST.—Limited access privilege, quota share, or other lim-  
11 ited access system authorization established, implemented,  
12 or managed under this Act—

13           “(1) shall be considered a permit for the pur-  
14 poses of sections 307, 308, and 309;

15           “(2) may be revoked, limited, or modified at  
16 any time in accordance with this Act, including rev-  
17 ocation for failure to comply with the terms of the  
18 plan or if the system is found to have jeopardized  
19 the sustainability of the stock or the safety of fisher-  
20 men;

21           “(3) shall not confer any right of compensation  
22 to the holder of such limited access privilege, quota  
23 share, or other such limited access system authoriza-  
24 tion if it is revoked, limited, or modified;

1 “(4) shall not create, or be construed to create,  
2 any right, title, or interest in or to any fish before  
3 the fish is harvested by the holder; and

4 “(5) shall be considered a grant of permission  
5 to the holder of the limited access privilege or quota  
6 share to engage in activities permitted by such lim-  
7 ited access privilege or quota share.

8 “(c) REQUIREMENTS FOR LIMITED ACCESS PRIVI-  
9 LEGES.—

10 “(1) IN GENERAL.—Any limited access privilege  
11 program to harvest fish submitted by a Council or  
12 approved by the Secretary under this section shall—

13 “(A) if established in a fishery that is over-  
14 fished or subject to a rebuilding plan, assist in  
15 its rebuilding; and

16 “(B) if established in a fishery that is de-  
17 termined by the Secretary or the Council to  
18 have over-capacity, contribute to reducing ca-  
19 pacity;

20 “(C) promote—

21 “(i) fishing safety; and

22 “(ii) fishery conservation and manage-  
23 ment;

24 “(D) prohibit any person other than a  
25 United States citizen, a corporation, partner-

1 ship, or other entity established under the laws  
2 of the United States or any State, or a perma-  
3 nent resident alien, that meets the eligibility  
4 and participation requirements established in  
5 the program from acquiring a privilege to har-  
6 vest fish, including any person that acquires a  
7 limited access privilege solely for the purpose of  
8 perfecting or realizing on a security interest in  
9 such privilege;

10 “(E) require that all fish harvested under  
11 a limited access privilege program be processed  
12 on vessels of the United States or on United  
13 States soil (including any territory of the  
14 United States);

15 “(F) specify the goals of the program;

16 “(G) include provisions for the regular  
17 monitoring and review by the Council and the  
18 Secretary of the operations of the program, in-  
19 cluding determining progress in meeting the  
20 goals of the program and this Act, and any nec-  
21 essary modification of the program to meet  
22 those goals, with a formal and detailed review  
23 5 years after the establishment of the program  
24 and every 5 years thereafter;

1           “(H) include an effective system for en-  
2           forcement, monitoring, and management of the  
3           program, including the use of observers or elec-  
4           tronic monitoring systems;

5           “(I) include an appeals process for admin-  
6           istrative review of the Secretary’s decisions re-  
7           garding initial allocation of limited access privi-  
8           leges;

9           “(J) provide for the establishment by the  
10          Secretary, in consultation with the Department  
11          of Justice and the Federal Trade Commission,  
12          for an information collection and review process  
13          to provide any additional information needed by  
14          the Department of Justice and the Federal  
15          Trade Commission to determine whether any il-  
16          legal acts of anti-competition, anti-trust, price  
17          collusion, or price fixing have occurred among  
18          regional fishery associations or persons receiv-  
19          ing limited access privileges under the program;  
20          and

21          “(K) provide for the revocation by the Sec-  
22          retary of limited access privileges held by any  
23          person found to have violated the antitrust laws  
24          of the United States.

1           “(2) WAIVER.—The Secretary may waive the  
2           requirement of paragraph (1)(E) if the Secretary de-  
3           termines that—

4                   “(A) the fishery has historically processed  
5           the fish outside of the United States; and

6                   “(B) the United States has a seafood safe-  
7           ty equivalency agreement with the country  
8           where processing will occur.

9           “(3) FISHING COMMUNITIES.—

10                   “(A) IN GENERAL.—

11                           “(i) ELIGIBILITY.—To be eligible to  
12           participate in a limited access privilege  
13           program to harvest fish, a fishing commu-  
14           nity shall—

15                                   “(I) be located within the man-  
16           agement area of the relevant Council;

17                                   “(II) meet criteria developed by  
18           the relevant Council, approved by the  
19           Secretary, and published in the Fed-  
20           eral Register;

21                                   “(III) consist of residents who  
22           conduct commercial or recreational  
23           fishing, processing, or fishery-depend-  
24           ent support businesses within the  
25           Council’s management area; and

1                   “(IV) develop and submit a com-  
2                   munity sustainability plan to the  
3                   Council and the Secretary that dem-  
4                   onstrates how the plan will address  
5                   the social and economic development  
6                   needs of fishing communities, includ-  
7                   ing those that have not historically  
8                   had the resources to participate in the  
9                   fishery, for approval based on criteria  
10                  developed by the Council that have  
11                  been approved by the Secretary and  
12                  published in the Federal Register.

13               “(ii) FAILURE TO COMPLY WITH  
14               PLAN.—The Secretary shall deny limited  
15               access privileges granted under this section  
16               for any person who fails to comply with the  
17               requirements of the community sustain-  
18               ability plan.

19               “(B) PARTICIPATION CRITERIA.—In devel-  
20               oping participation criteria for eligible commu-  
21               nities under this paragraph, a Council shall  
22               consider—

23                   “(i) traditional fishing or processing  
24                   practices in, and dependence on, the fish-  
25                   ery;

1                   “(ii) the cultural and social frame-  
2                   work relevant to the fishery;

3                   “(iii) economic barriers to access to  
4                   fishery;

5                   “(iv) the existence and severity of pro-  
6                   jected economic and social impacts associ-  
7                   ated with implementation of limited access  
8                   privilege programs on harvesters, captains,  
9                   crew, processors, and other businesses sub-  
10                  stantially dependent upon the fishery in  
11                  the region or subregion;

12                  “(v) the expected effectiveness, oper-  
13                  ational transparency, and equitability of  
14                  the community sustainability plan; and

15                  “(vi) the potential for improving eco-  
16                  nomic conditions in remote coastal commu-  
17                  nities lacking resources to participate in  
18                  harvesting or processing activities in the  
19                  fishery.

20                  “(4) REGIONAL FISHERY ASSOCIATIONS.—

21                  “(A) IN GENERAL.—To be eligible to par-  
22                  ticipate in a limited access privilege program to  
23                  harvest fish, a regional fishery association  
24                  shall—



1                   “(i) be located within the management  
2                   area of the relevant Council;

3                   “(ii) meet criteria developed by the  
4                   relevant Council, approved by the Sec-  
5                   retary, and published in the Federal Reg-  
6                   ister;

7                   “(iii) be a voluntary association with  
8                   established by-laws and operating proce-  
9                   dures;

10                  “(iv) consist of participants in the  
11                  fishery who hold quota share that are des-  
12                  ignated for use in the specific region or  
13                  subregion covered by the regional fishery  
14                  association, including commercial or rec-  
15                  reational fishing, processing, fishery-de-  
16                  pendent support businesses, or fishing  
17                  communities;

18                  “(v) not be eligible to receive an ini-  
19                  tial allocation of a limited access privilege  
20                  but may acquire such privileges after the  
21                  initial allocation, and may hold the annual  
22                  fishing privileges of any limited access  
23                  privileges it holds or the annual fishing  
24                  privileges that is members contribute; and

1                   “(vi) develop and submit a regional  
2                   fishery association plan to the Council and  
3                   the Secretary for approval based on cri-  
4                   teria developed by the Council that have  
5                   been approved by the Secretary and pub-  
6                   lished in the Federal Register.

7                   “(B) FAILURE TO COMPLY WITH PLAN.—  
8                   The Secretary shall deny limited access privi-  
9                   leges granted under this section to any person  
10                  participating in a regional fishery association  
11                  who fails to comply with the requirements of  
12                  the regional fishery association plan.

13                  “(C) PARTICIPATION CRITERIA.—In devel-  
14                  oping participation criteria for eligible regional  
15                  fishery associations under this paragraph, a  
16                  Council shall consider—

17                       “(i) traditional fishing or processing  
18                       practices in, and dependence on, the fish-  
19                       ery;

20                       “(ii) the cultural and social frame-  
21                       work relevant to the fishery;

22                       “(iii) economic barriers to access to  
23                       fishery;

24                       “(iv) the existence and severity of pro-  
25                       jected economic and social impacts associ-

1           ated with implementation of limited access  
2           privilege programs on harvesters, captains,  
3           crew, processors, and other businesses sub-  
4           stantially dependent upon the fishery in  
5           the region or subregion;

6           “(v) the administrative and fiduciary  
7           soundness of the association; and

8           “(vi) the expected effectiveness, oper-  
9           ational transparency, and equitability of  
10          the fishery association plan.

11          “(5) ALLOCATION.—In developing a limited ac-  
12          cess privilege program to harvest fish a Council or  
13          the Secretary shall—

14               “(A) establish procedures to ensure fair  
15               and equitable initial allocations, including con-  
16               sideration of—

17                       “(i) current and historical harvests;

18                       “(ii) employment in the harvesting  
19                       and processing sectors;

20                       “(iii) investments in, and dependence  
21                       upon, the fishery; and

22                       “(iv) the current and historical par-  
23                       ticipation of fishing communities;

1                   “(B) to the extent practicable, consider the  
2                   basic cultural and social framework of the fish-  
3                   ery, especially through—

4                   “(i) the development of policies to  
5                   promote the sustained participation of  
6                   small owner-operated fishing vessels and  
7                   fishing communities that depend on the  
8                   fisheries, including regional or port-specific  
9                   landing or delivery requirements; and

10                  “(ii) procedures to address concerns  
11                  over excessive geographic or other consoli-  
12                  dation in the harvesting or processing sec-  
13                  tors of the fishery;

14                  “(C) include measures to assist, when nec-  
15                  essary and appropriate, entry-level and small  
16                  vessel owner-operators, captains, crew, and fish-  
17                  ing communities through set-asides of har-  
18                  vesting allocations, including providing privi-  
19                  leges, which may include set-asides or alloca-  
20                  tions of harvesting privileges, or economic as-  
21                  sistance in the purchase of limited access privi-  
22                  leges;

23                  “(D) ensure that limited access privilege  
24                  holders do not acquire an excessive share of the

1 total limited access privileges in the program  
2 by—

3 “(i) establishing a maximum share,  
4 expressed as a percentage of the total lim-  
5 ited access privileges, that a limited access  
6 privilege holder is permitted to hold, ac-  
7 quire, or use; and

8 “(ii) establishing any other limitations  
9 or measures necessary to prevent an in-  
10 equitable concentration of limited access  
11 privileges; and

12 “(E) authorize limited access privileges to  
13 harvest fish to be held, acquired, used by, or  
14 issued under the system to persons who sub-  
15 stantially participate in the fishery, including in  
16 a specific sector of such fishery, as specified by  
17 the Council.

18 “(6) PROGRAM INITIATION.—

19 “(A) LIMITATION.—Except as provided in  
20 subparagraph (D), a Council may initiate a  
21 fishery management plan or amendment to es-  
22 tablish a limited access privilege program to  
23 harvest fish on its own initiative or if the Sec-  
24 retary has certified an appropriate petition.

1           “(B) PETITION.—A group of fishermen  
2           constituting more than 50 percent of the permit  
3           holders, or holding more than 50 percent of the  
4           allocation, in the fishery for which a limited ac-  
5           cess privilege program to harvest fish is sought,  
6           may submit a petition to the Secretary request-  
7           ing that the relevant Council or Councils with  
8           authority over the fishery be authorized to ini-  
9           tiate the development of the program. Any such  
10          petition shall clearly state the fishery to which  
11          the limited access privilege program would  
12          apply. For multispecies permits in the Gulf,  
13          only those participants who have substantially  
14          fished the species proposed to be included in the  
15          limited access program shall be eligible to sign  
16          a petition for such a program and shall serve  
17          as the basis for determining the percentage de-  
18          scribed in the first sentence of this subpara-  
19          graph.

20          “(C) CERTIFICATION BY SECRETARY.—  
21          Upon the receipt of any such petition, the Sec-  
22          retary shall review all of the signatures on the  
23          petition and, if the Secretary determines that  
24          the signatures on the petition represent more  
25          than 50 percent of the permit holders, or hold-

1           ers of more than 50 percent of the allocation in  
2           the fishery, as described by subparagraph (B),  
3           the Secretary shall certify the petition to the  
4           appropriate Council or Councils.

5           “(D) NEW ENGLAND AND GULF REF-  
6           ERENDUM.—

7           “(i) Except as provided in clause (iii)  
8           for the Gulf of Mexico commercial red  
9           snapper fishery, the New England and  
10          Gulf Councils may not submit, and the  
11          Secretary may not approve or implement, a  
12          fishery management plan or amendment  
13          that creates an individual fishing quota  
14          program, including a Secretarial plan, un-  
15          less such a system, as ultimately developed,  
16          has been approved by more than  $\frac{2}{3}$  of  
17          those voting in a referendum among eligi-  
18          ble permit holders with respect to the New  
19          England Council, and by a majority of  
20          those voting in the referendum among eli-  
21          gible permit holders with respect to the  
22          Gulf Council. For multispecies permits in  
23          the Gulf, only those participants who have  
24          substantially fished the species proposed to  
25          be included in the individual fishing quota

1 program shall be eligible to vote in such a  
2 referendum. If an individual fishing quota  
3 program fails to be approved by the req-  
4 uisite number of those voting, it may be  
5 revised and submitted for approval in a  
6 subsequent referendum.

7 “(ii) The Secretary shall conduct a  
8 referendum under this subparagraph, in-  
9 cluding notifying all persons eligible to  
10 participate in the referendum and making  
11 available to them information concerning  
12 the schedule, procedures, and eligibility re-  
13 quirements for the referendum process and  
14 the proposed individual fishing quota pro-  
15 gram. Within 1 year after the date of en-  
16 actment of the Magnuson-Stevens Fishery  
17 Conservation and Management Reauthor-  
18 ization Act of 2006, the Secretary shall  
19 publish guidelines and procedures to deter-  
20 mine procedures and voting eligibility re-  
21 quirements for referenda and to conduct  
22 such referenda in a fair and equitable  
23 manner.

24 “(iii) The provisions of section 407(c)  
25 of this Act shall apply in lieu of this sub-



1 paragraph for an individual fishing quota  
2 program for the Gulf of Mexico commercial  
3 red snapper fishery.

4 “(iv) Chapter 35 of title 44, United  
5 States Code, (commonly known as the Pa-  
6 perwork Reduction Act) does not apply to  
7 the referenda conducted under this sub-  
8 paragraph.

9 “(7) TRANSFERABILITY.—In establishing a lim-  
10 ited access privilege program, a Council shall—

11 “(A) establish a policy on the transfer-  
12 ability of limited access privileges (through sale  
13 or lease), that is consistent with the policies  
14 adopted by the Council for the fishery under  
15 paragraph (5); and

16 “(B) establish criteria for the approval and  
17 monitoring of transfers (including sales and  
18 leases) of limited access privileges.

19 “(8) PREPARATION AND IMPLEMENTATION OF  
20 SECRETARIAL PLANS.—This subsection also applies  
21 to a plan prepared and implemented by the Sec-  
22 retary under section 304(c) or 304(g).

23 “(9) ANTITRUST SAVINGS CLAUSE.—Nothing in  
24 this Act shall be construed to modify, impair, or su-  
25 perse the operation of any of the antitrust laws.

1 For purposes of the preceding sentence, the term  
2 ‘antitrust laws’ has the meaning given such term in  
3 subsection (a) of the first section of the Clayton Act,  
4 except that such term includes section 5 of the Fed-  
5 eral Trade Commission Act to the extent that such  
6 section 5 applies to unfair methods of competition.

7 “(d) AUCTION AND OTHER PROGRAMS.—In estab-  
8 lishing a limited access privilege program, a Council may  
9 consider, and provide for, if appropriate, an auction sys-  
10 tem or other program to collect royalties for the initial,  
11 or any subsequent, distribution of allocations in a limited  
12 access privilege program if—

13 “(1) the system or program is administered in  
14 such a way that the resulting distribution of limited  
15 access privilege shares meets the program require-  
16 ments of this section; and

17 “(2) revenues generated through such a royalty  
18 program are deposited in the Limited Access System  
19 Administration Fund established by section  
20 305(h)(5)(B) and available subject to annual appro-  
21 priations.

22 “(e) COST RECOVERY.—In establishing a limited ac-  
23 cess privilege program, a Council shall—

24 “(1) develop a methodology and the means to  
25 identify and assess the management, data collection

1 and analysis, and enforcement programs that are di-  
2 rectly related to and in support of the program; and

3 “(2) provide, under section 304(d)(2), for a  
4 program of fees paid by limited access privilege hold-  
5 ers that will cover the costs of management, data  
6 collection and analysis, and enforcement activities.

7 “(f) LIMITED DURATION.—In establishing a limited  
8 access privilege program after the date of enactment of  
9 the Magnuson-Stevens Fishery Conservation and Manage-  
10 ment Reauthorization Act of 2006, a Council may estab-  
11 lish—

12 “(1) a set term after which any initial or subse-  
13 quent allocation of a limited access privilege shall ex-  
14 pire;

15 “(2) different set terms within a fishery if the  
16 Council determines that variation of terms will fur-  
17 ther management goals; and

18 “(3) a mechanism under which participants in  
19 and entrants to the program may acquire or reac-  
20 quire allocations.

21 “(g) LIMITED ACCESS PRIVILEGE ASSISTED PUR-  
22 CHASE PROGRAM.—

23 “(1) IN GENERAL.—A Council may submit, and  
24 the Secretary may approve and implement, a pro-  
25 gram which reserves up to 25 percent of any fees

1 collected from a fishery under section 304(d)(2) to  
2 be used, pursuant to section 1104A(a)(7) of the  
3 Merchant Marine Act, 1936 (46 U.S.C. App.  
4 1274(a)(7)), to issue obligations that aid in financ-  
5 ing—

6 “(A) the purchase of limited access privi-  
7 leges in that fishery by fishermen who fish from  
8 small vessels; and

9 “(B) the first-time purchase of limited ac-  
10 cess privileges in that fishery by entry level  
11 fishermen.

12 “(2) ELIGIBILITY CRITERIA.—A Council mak-  
13 ing a submission under paragraph (1) shall rec-  
14 ommend criteria, consistent with the provisions of  
15 this Act, that a fisherman must meet to qualify for  
16 guarantees under subparagraphs (A) and (B) of  
17 paragraph (1) and the portion of funds to be allo-  
18 cated for guarantees under each subparagraph.

19 “(h) EFFECT ON CERTAIN EXISTING SHARES AND  
20 PROGRAMS.—Nothing in this Act, or the amendments  
21 made by the Magnuson-Stevens Fishery Conservation and  
22 Management Reauthorization Act of 2006, shall be con-  
23 strued to require a reallocation or a reevaluation of indi-  
24 vidual quota shares, processor quota shares, cooperative  
25 programs, or other quota programs, including sector allo-

1 cation in effect before the date of enactment of the Mag-  
2 nuson-Stevens Fishery Conservation and Management Re-  
3 authorization Act of 2006.

4 “(i) TRANSITION RULE.—The requirements of this  
5 section shall not apply to any quota program, including  
6 any individual quota program, cooperative program, or  
7 sector allocation placed on a Council agenda for final ac-  
8 tion, submitted by a Council to the Secretary, or approved  
9 by the Secretary or by Congressional action, within 60  
10 days after the date of enactment of the Magnuson-Stevens  
11 Fishery Conservation and Management Reauthorization  
12 Act of 2006, except that—

13 “(1) the requirements of section 303(d) of this  
14 Act in effect on the day before the date of enact-  
15 ment of that Act shall apply to any such program;

16 “(2) the program shall be subject to review  
17 under subsection (c)(1)(G) of this section not later  
18 than 5 years after the program approval; and

19 “(3) nothing in this subsection precludes a  
20 Council from incorporating criteria contained in this  
21 section into any such plans.”.

22 (b) FEES.—Section 304(d)(2)(A) (16 U.S.C.  
23 1854(d)(2)(A)) is amended by striking “management and  
24 enforcement” and inserting “management, data collection,  
25 and enforcement”.

1       (c) INVESTMENT IN UNITED STATES SEAFOOD  
2 PROCESSING FACILITIES.—The Secretary of Commerce  
3 shall work with the Small Business Administration and  
4 other Federal agencies to develop financial and other  
5 mechanisms to encourage United States investment in sea-  
6 food processing facilities in the United States for fisheries  
7 that lack capacity needed to process fish harvested by  
8 United States vessels in compliance with the Magnuson—  
9 Stevens Fishery Conservation and Management Act (16  
10 U.S.C. 1801 et seq.).

11       (d) CONFORMING AMENDMENT.—Section  
12 304(d)(2)(C)(i) (16 U.S.C. 1854(d)(2)(C)(i)) is amended  
13 by striking “section 305(h)(5)(B)” and all that follows  
14 and inserting “section 305(h)(5)(B).”.

15       (e) APPLICATION WITH AMERICAN FISHERIES  
16 ACT.—Nothing in section 303A of the Magnuson-Stevens  
17 Fishery Conservation and Management Act (16 U.S.C.  
18 1801 et seq.), as added by subsection (a), shall be con-  
19 strued to modify or supersede any provision of the Amer-  
20 ican Fisheries Act (46 U.S.C. 12102 note; 16 U.S.C. 1851  
21 note; et alia).

22 **SEC. 107. ENVIRONMENTAL REVIEW PROCESS.**

23       Section 304 (16 U.S.C. 1854) is amended by adding  
24 at the end the following:

25       “(i) ENVIRONMENTAL REVIEW PROCESS.—

1           “(1) PROCEDURES.—The Secretary shall, in  
2           consultation with the Councils and the Council on  
3           Environmental Quality, revise and update agency  
4           procedures for compliance with the National Envi-  
5           ronmental Policy Act (42 U.S.C. 4231 et seq.). The  
6           procedures shall—

7                   “(A) conform to the time lines for review  
8                   and approval of fishery management plans and  
9                   plan amendments under this section; and

10                   “(B) integrate applicable environmental  
11                   analytical procedures, including the time frames  
12                   for public input, with the procedure for the  
13                   preparation and dissemination of fishery man-  
14                   agement plans, plan amendments, and other ac-  
15                   tions taken or approved pursuant to this Act in  
16                   order to provide for timely, clear and concise  
17                   analysis that is useful to decision makers and  
18                   the public, reduce extraneous paperwork, and  
19                   effectively involve the public.

20           “(2) USAGE.—The updated agency procedures  
21           promulgated in accordance with this section used by  
22           the Councils or the Secretary shall be the sole envi-  
23           ronmental impact assessment procedure for fishery  
24           management plans, amendments, regulations, or

1 other actions taken or approved pursuant to this  
2 Act.

3 “(3) SCHEDULE FOR PROMULGATION OF FINAL  
4 PROCEDURES.—The Secretary shall—

5 “(A) propose revised procedures within 12  
6 months after the date of enactment of the Mag-  
7 nuson-Stevens Fishery Conservation and Man-  
8 agement Reauthorization Act of 2006;

9 “(B) provide 90 days for public review and  
10 comments; and

11 “(C) promulgate final procedures no later  
12 than 18 months after the date of enactment of  
13 that Act.

14 “(4) PUBLIC PARTICIPATION.—The Secretary is  
15 authorized and directed, in cooperation with the  
16 Council on Environmental Quality and the Councils,  
17 to involve the affected public in the development of  
18 revised procedures, including workshops or other ap-  
19 propriate means of public involvement.”.

20 **SEC. 108. EMERGENCY REGULATIONS.**

21 (a) LENGTHENING OF SECOND EMERGENCY PE-  
22 RIOD.—Section 305(c)(3)(B) (16 U.S.C. 1855(c)(3)(B))  
23 is amended by striking “180 days,” the second time it ap-  
24 pears and inserting “186 days,”.



1 (b) TECHNICAL AMENDMENT.—Section 305(c)(3)(D)  
2 (16 U.S.C. 1855(c)(3)(D)) is amended by inserting “or  
3 interim measures” after “emergency regulations”.

4 **SEC. 109. WESTERN PACIFIC COMMUNITY DEVELOPMENT.**

5 Section 305 (16 U.S.C. 1855) is amended by adding  
6 at the end thereof the following:

7 “(j) WESTERN PACIFIC REGIONAL MARINE EDU-  
8 CATION AND TRAINING.—

9 “(1) IN GENERAL.—The Secretary shall estab-  
10 lish a pilot program for regionally-based marine edu-  
11 cation and training programs in the Western Pacific  
12 to foster understanding, practical use of knowledge  
13 (including native Hawaiian and other Pacific Is-  
14 lander-based knowledge), and technical expertise rel-  
15 evant to stewardship of living marine resources. The  
16 Secretary shall, in cooperation with the Western Pa-  
17 cific Regional Fishery Management Council, regional  
18 educational institutions, and local Western Pacific  
19 community training entities, establish programs or  
20 projects that will improve communication, education,  
21 and training on marine resource issues throughout  
22 the region and increase scientific education for ma-  
23 rine-related professions among coastal community  
24 residents, including indigenous Pacific islanders, Na-

1       tive Hawaiians and other underrepresented groups  
2       in the region.

3           “(2) PROGRAM COMPONENTS.—The program  
4       shall—

5           “(A) include marine science and technology  
6       education and training programs focused on  
7       preparing community residents for employment  
8       in marine related professions, including marine  
9       resource conservation and management, marine  
10      science, marine technology, and maritime oper-  
11      ations;

12          “(B) include fisheries and seafood-related  
13      training programs, including programs for fish-  
14      ery observers, seafood safety and seafood mar-  
15      keting, focused on increasing the involvement of  
16      coastal community residents in fishing, fishery  
17      management, and seafood-related operations;

18          “(C) include outreach programs and mate-  
19      rials to educate and inform consumers about  
20      the quality and sustainability of wild fish or  
21      fish products farmed through responsible aqua-  
22      culture, particularly in Hawaii and the Western  
23      Pacific;

24          “(D) include programs to identify, with the  
25      fishing industry, methods and technologies that

1 will improve the data collection, quality, and re-  
2 porting and increase the sustainability of fish-  
3 ing practices, and to transfer such methods and  
4 technologies among fisheries sectors and to  
5 other nations in the Western and Central Pa-  
6 cific;

7 “(E) develop means by which local and  
8 traditional knowledge (including Pacific islander  
9 and Native Hawaiian knowledge) can enhance  
10 science-based management of fishery resources  
11 of the region; and

12 “(F) develop partnerships with other West-  
13 ern Pacific Island agencies, academic institu-  
14 tions, and other entities to meet the purposes of  
15 this section.”.

16 **SEC. 110. WESTERN ALASKA COMMUNITY DEVELOPMENT**  
17 **QUOTA PROGRAM.**

18 Section 305(i)(1) (16 U.S.C. 1855(i)(1)) is amend-  
19 ed—

20 (1) by striking “To” in subparagraph (B) and  
21 inserting “Except as provided in subparagraph (E),  
22 to”; and

23 (2) by adding at the end the following:

24 “(E) A community shall be eligible to par-  
25 ticipate in the western Alaska community devel-

1           opment quota program under subparagraph (A)  
2           if the community was—

3                   “(i) listed in table 7 to part 679 of  
4                   title 50, Code of Federal Regulations, as in  
5                   effect on January 1, 2004; or

6                   “(ii) approved by the National Marine  
7                   Fisheries Service on April 19, 1999.”.

8   **SEC. 111. SECRETARIAL ACTION ON STATE GROUND FISH**  
9                   **FISHING.**

10       Section 305 (16 U.S.C. 1855), as amended by section  
11   109, is further amended by adding at the end thereof the  
12   following:

13       “(k) MULTISPECIES GROUND FISH.—Within 60 days  
14   after the date of enactment of the Magnuson-Stevens  
15   Fishery Conservation and Management Reauthorization  
16   Act of 2006, the Secretary of Commerce shall determine  
17   whether fishing in State waters without a New England  
18   multispecies groundfish fishery permit on regulated spe-  
19   cies within the multispecies complex is not consistent with  
20   the applicable Federal fishery management plan. If the  
21   Secretary makes a determination that such actions are not  
22   consistent with the plan, the Secretary shall, in consulta-  
23   tion with the Council, and after notifying the affected  
24   State, develop and implement measures to cure the incon-  
25   sistency pursuant to section 306(b).”.

1 **SEC. 112. JOINT ENFORCEMENT AGREEMENTS.**

2 (a) IN GENERAL.—Section 311 (16 U.S.C. 1861) is  
3 amended—

4 (1) by striking “and” after the semicolon in  
5 subsection (b)(1)(A)(iv);

6 (2) by inserting “and” after the semicolon in  
7 subsection (b)(1)(A)(v);

8 (3) by inserting after clause (v) of subsection  
9 (b)(1)(A) the following:

10 “(vi) access, directly or indirectly, for  
11 enforcement purposes any data or informa-  
12 tion required to be provided under this  
13 title or regulations under this title, includ-  
14 ing data from Global Maritime Distress  
15 and Safety Systems, vessel monitoring sys-  
16 tems, or any similar system, subject to the  
17 confidentiality provisions of section 402;”;

18 (4) by redesignating subsection (h) as sub-  
19 section (j); and

20 (5) by inserting after subsection (g) the fol-  
21 lowing:

22 “(h) JOINT ENFORCEMENT AGREEMENTS.—

23 “(1) IN GENERAL.—The Governor of an eligible  
24 State may apply to the Secretary for execution of a  
25 joint enforcement agreement with the Secretary that  
26 will authorize the deputization and funding of State

1 law enforcement officers with marine law enforce-  
2 ment responsibilities to perform duties of the Sec-  
3 retary relating to law enforcement provisions under  
4 this title or any other marine resource law enforced  
5 by the Secretary. Upon receiving an application  
6 meeting the requirements of this subsection, the Sec-  
7 retary may enter into a joint enforcement agreement  
8 with the requesting State.

9 “(2) ELIGIBLE STATE.—A State is eligible to  
10 participate in the cooperative enforcement agree-  
11 ments under this section if it is in, or bordering on,  
12 the Atlantic Ocean (including the Caribbean Sea),  
13 the Pacific Ocean, the Arctic Ocean, the Gulf of  
14 Mexico, Long Island Sound, or 1 or more of the  
15 Great Lakes.

16 “(3) REQUIREMENTS.—Joint enforcement  
17 agreements executed under paragraph (1)—

18 “(A) shall be consistent with the purposes  
19 and intent of this section to the extent applica-  
20 ble to the regulated activities;

21 “(B) may include specifications for joint  
22 management responsibilities as provided by the  
23 first section of Public Law 91–412 (15 U.S.C.  
24 1525); and

1           “(C) shall provide for confidentiality of  
2           data and information submitted to the State  
3           under section 402.

4           “(4) ALLOCATION OF FUNDS.—The Secretary  
5           shall include in each joint enforcement agreement an  
6           allocation of funds to assist in management of the  
7           agreement. The allocation shall be fairly distributed  
8           among all eligible States participating in cooperative  
9           enforcement agreements under this subsection, based  
10          upon consideration of Federal marine enforcement  
11          needs, the specific marine conservation enforcement  
12          needs of each participating eligible State, and the  
13          capacity of the State to undertake the marine en-  
14          forcement mission and assist with enforcement  
15          needs. The agreement may provide for amounts to  
16          be withheld by the Secretary for the cost of any  
17          technical or other assistance provided to the State  
18          by the Secretary under the agreement.

19          “(i) IMPROVED DATA SHARING.—

20               “(1) IN GENERAL.—Notwithstanding any other  
21               provision of this Act, as soon as practicable but no  
22               later than 21 months after the date of enactment of  
23               the Magnuson-Stevens Fishery Conservation and  
24               Management Reauthorization Act of 2006, the Sec-  
25               retary shall implement data-sharing measures to

1 make any data required to be provided by this Act  
2 from Global Maritime Distress and Safety Systems,  
3 vessel monitoring systems, or similar systems—

4 “(A) directly accessible by State enforce-  
5 ment officers authorized under subsection (a) of  
6 this section; and

7 “(B) available to a State management  
8 agency involved in, or affected by, management  
9 of a fishery if the State has entered into an  
10 agreement with the Secretary under section  
11 402(b)(1)(B) of this Act.

12 “(2) AGREEMENT REQUIRED.—The Secretary  
13 shall promptly enter into an agreement with a State  
14 under section 402(b)(1)(B) of this Act if—

15 “(A) the Attorney General or highest rank-  
16 ing legal officer of the State provides a written  
17 opinion or certification that State law allows  
18 the State to maintain the confidentiality of in-  
19 formation required by Federal law to be kept  
20 confidential; or

21 “(B) the Secretary is provided other rea-  
22 sonable assurance that the State can and will  
23 protect the identity or business of any person to  
24 which such information relates.”.



1 (b) REPORT ON USING GMDSS FOR FISHERY PUR-  
2 POSES.—Within 15 months after the date of enactment  
3 of this Act, the National Marine Fisheries Service and the  
4 United States Coast Guard shall transmit a joint report  
5 to the Senate Committee on Commerce, Science, and  
6 Transportation and the House of Representatives Com-  
7 mittee on Resources containing—

8 (1) a cost-to-benefit analysis of the feasibility,  
9 value, and cost of using the Global Maritime Dis-  
10 tress and Safety Systems, vessel monitoring systems,  
11 or similar systems for fishery management, con-  
12 servation, enforcement, and safety purposes with the  
13 Federal government bearing the capital costs of any  
14 such system;

15 (2) an examination of the cumulative impact of  
16 existing requirements for commercial vessels;

17 (3) an examination of whether the Global Mari-  
18 time Distress and Safety Systems or similar require-  
19 ments would overlap existing requirements or render  
20 them redundant;

21 (4) an examination of how data integration  
22 from such systems could be addressed;

23 (5) an examination of how to maximize the  
24 data-sharing opportunities between relevant State  
25 and Federal agencies and provide specific informa-

1       tion on how to develop these opportunities, including  
2       the provision of direct access to the Global Maritime  
3       Distress and Safety Systems or similar system data  
4       to State enforcement officers, while considering the  
5       need to maintain or provide an appropriate level of  
6       individual vessel confidentiality where practicable;  
7       and

8               (6) an assessment of how the Global Maritime  
9       Distress and Safety Systems or similar systems  
10      could be developed, purchased, and distributed to  
11      regulated vessels.

12 **SEC. 113. TRANSITION TO SUSTAINABLE FISHERIES.**

13      (a) IN GENERAL.—Section 312 (16 U.S.C. 1861a)  
14      is amended—

15              (1) by striking “measures;” in subsection  
16      (a)(1)(B) and inserting “measures, including regu-  
17      latory restrictions (including those imposed as a re-  
18      sult of judicial action) imposed to protect human  
19      health or the marine environment;”;

20              (2) by striking “1996, 1997, 1998, and 1999.”  
21      in subsection (a)(4) and inserting “2006 through  
22      2012.”;

23              (3) by striking “or the Governor of a State for  
24      fisheries under State authority, may conduct a fish-  
25      ing” in subsection (b)(1) and inserting “the Gov-

1       error of a State for fisheries under State authority,  
2       or a majority of permit holders in the fishery, may  
3       conduct a voluntary fishing”;

4           (4) by inserting “practicable” after “entrants,”  
5       in subsection (b)(1)(B)(i);

6           (5) by striking “cost-effective and” in sub-  
7       section (b)(1)(C) and inserting “cost-effective and, in  
8       the instance of a program involving an industry fee  
9       system, prospectively”;

10          (6) by striking subparagraph (A) of subsection  
11       (b)(2) and inserting the following:

12           “(A) the owner of a fishing vessel, if the permit  
13       authorizing the participation of the vessel in the  
14       fishery is surrendered for permanent revocation and  
15       the vessel owner and permit holder relinquish any  
16       claim associated with the vessel or permit that could  
17       qualify such owner or holder for any present or fu-  
18       ture limited access system permit in the fishery for  
19       which the program is established and such vessel is  
20       (i) scrapped, or (ii) through the Secretary of the de-  
21       partment in which the Coast Guard is operating,  
22       subjected to title restrictions (including loss of the  
23       vessel’s fisheries endorsement) that permanently  
24       prohibit and effectively prevent its use in fishing in

1 federal or state waters, or fishing on the high seas  
2 or in the waters of a foreign nation; or”;

3 (7) by striking “The Secretary shall consult, as  
4 appropriate, with Councils,” in subsection (b)(4) and  
5 inserting “The harvester proponents of each pro-  
6 gram and the Secretary shall consult, as appropriate  
7 and practicable, with Councils,”;

8 (8) by striking “Secretary, at the request of the  
9 appropriate Council,” in subsection (d)(1)(A) and  
10 inserting “Secretary”;

11 (9) by striking “Secretary, in consultation with  
12 the Council,” in subsection (d)(1)(A) and inserting  
13 “Secretary”;

14 (10) by striking “a two-thirds majority of the  
15 participants voting.” in subsection (d)(1)(B) and in-  
16 serting “at least a majority of the permit holders in  
17 the fishery, or 50 percent of the permitted allocation  
18 of the fishery, who participated in the fishery.”;

19 (11) by striking “establish;” in subsection  
20 (d)(2)((C) and inserting “establish, unless the Sec-  
21 retary determines that such fees should be collected  
22 from the seller;” and

23 (12) striking subsection (e) and inserting the  
24 following:

25 “(e) IMPLEMENTATION PLAN.—

1           “(1) FRAMEWORK REGULATIONS.—The Sec-  
2       retary shall propose and adopt framework regula-  
3       tions applicable to the implementation of all pro-  
4       grams under this section.

5           “(2) PROGRAM REGULATIONS.—The Secretary  
6       shall implement each program under this section by  
7       promulgating regulations that, together with the  
8       framework regulations, establish each program and  
9       control its implementation.

10          “(3) HARVESTER PROPONENTS’ IMPLEMENTA-  
11       TION PLAN.—The Secretary may not propose imple-  
12       mentation regulations for a program to be paid for  
13       by an industry fee system until the harvester pro-  
14       ponents of the program provide to the Secretary a  
15       proposed implementation plan that, among other  
16       matters—

17               “(A) proposes the types and numbers of  
18       vessels or permits that are eligible to participate  
19       in the program and the manner in which the  
20       program shall proceed, taking into account—

21                       “(i) the requirements of this section;

22                       “(ii) the requirements of the frame-  
23       work regulations;

24                       “(iii) the characteristics of the fishery;

1                   “(iv) the requirements of the applica-  
2                   ble fishery management plan and any  
3                   amendment that such plan may require to  
4                   support the proposed program;

5                   “(v) the general needs and desires of  
6                   harvesters in the fishery;

7                   “(vi) the need to minimize program  
8                   costs; and

9                   “(vii) other matters, including the  
10                  manner in which such proponents propose  
11                  to fund the program to ensure its cost ef-  
12                  fectiveness, as well as any relevant factors  
13                  demonstrating the potential for, or nec-  
14                  essary to obtain, the support and general  
15                  cooperation of a substantial number of af-  
16                  fected harvesters in the fishery (or portion  
17                  of the fishery) for which the program is in-  
18                  tended; and

19                  “(B) proposes procedures for program par-  
20                  ticipation (such as submission of owner bids  
21                  under an auction system or fair market-value  
22                  assessment), including any terms and condi-  
23                  tions for participation, that the harvester pro-  
24                  ponents deem to be reasonably necessary to  
25                  meet the program’s proposed objectives.

1           “(4) PARTICIPATION CONTRACTS.—The Sec-  
2       retary shall contract with each person participating  
3       in a program, and each such contract shall, in addi-  
4       tion to including such other matters as the Secretary  
5       deems necessary and appropriate to effectively im-  
6       plement each program (including penalties for con-  
7       tract non-performance) be consistent with the frame-  
8       work and implementing regulations and all other ap-  
9       plicable law.

10          “(5) REDUCTION AUCTIONS.—Each program  
11       not involving fair market assessment shall involve a  
12       reduction auction that scores the reduction price of  
13       each bid offer by the data relevant to each bidder  
14       under an appropriate fisheries productivity factor. If  
15       the Secretary accepts bids, the Secretary shall ac-  
16       cept responsive bids in the rank order of their bid  
17       scores, starting with the bid whose reduction price is  
18       the lowest percentage of the productivity factor, and  
19       successively accepting each additional responsive bid  
20       in rank order until either there are no more respon-  
21       sive bids or acceptance of the next bid would cause  
22       the total value of bids accepted to exceed the amount  
23       of funds available for the program.

24          “(6) BID INVITATIONS.—Each program shall  
25       proceed by the Secretary issuing invitations to bid

1 setting out the terms and conditions for participa-  
2 tion consistent with the framework and imple-  
3 menting regulations. Each bid that the Secretary re-  
4 ceives in response to the invitation to bid shall con-  
5 stitute an irrevocable offer from the bidder.”.

(b) TECHNICAL AMENDMENT.—Sections 116, 203, 204, 205, and 206 of the Sustainable Fisheries Act are deemed to have added sections 312, 402, 403, 404, and 405, respectively to the Act as of the date of enactment of the Sustainable Fisheries Act.

11 SEC. 114. REGIONAL COASTAL DISASTER ASSISTANCE,  
12 TRANSITION, AND RECOVERY PROGRAM.

13 (a) IN GENERAL.—Title III (16 U.S.C. 1851 et seq.)  
14 is amended by adding at the end the following:

15 "SEC. 315. REGIONAL COASTAL DISASTER ASSISTANCE,  
16 TRANSITION, AND RECOVERY PROGRAM.

“(a) IN GENERAL.—When there is a catastrophic regional fishery disaster the Secretary may, upon the request of, and in consultation with, the Governors of affected States, establish a regional economic transition program to provide immediate disaster relief assistance to the fishermen, charter fishing operators, United States fish processors, and owners of related fishery infrastructure affected by the disaster.

25 “(b) PROGRAM COMPONENTS.—



1           “(1) IN GENERAL.—Subject to the availability  
2           of appropriations, the program shall provide funds  
3           or other economic assistance to affected entities, or  
4           to governmental entities for disbursement to affected  
5           entities, for—

6                   “(A) meeting immediate regional shoreside  
7           fishery infrastructure needs, including proc-  
8           essing facilities, cold storage facilities, ice  
9           houses, docks, including temporary docks and  
10          storage facilities, and other related shoreside  
11          fishery support facilities and infrastructure;

12                   “(B) financial assistance and job training  
13          assistance for fishermen who wish to remain in  
14          a fishery in the region that may be temporarily  
15          closed as a result of environmental or other ef-  
16          fects associated with the disaster;

17                   “(C) funding, pursuant to the require-  
18          ments of section 312(b), to fishermen who are  
19          willing to scrap a fishing vessel and perma-  
20          nently surrender permits for fisheries named on  
21          that vessel; and

22                   “(D) any other activities authorized under  
23          section 312(a) of this Act or section 308(d) of  
24          the Interjurisdictional Fisheries Act of 1986  
25          (16 U.S.C. 4107(d)).

1           “(2) JOB TRAINING.—Any fisherman who de-  
2       cides to scrap a fishing vessel under the program  
3       shall be eligible for job training assistance.

4           “(3) STATE PARTICIPATION OBLIGATION.—The  
5       participation by a State in the program shall be con-  
6       ditioned upon a commitment by the appropriate  
7       State entity to ensure that the relevant State fishery  
8       meets the requirements of section 312(b) of this Act  
9       to ensure excess capacity does not re-enter the fish-  
10      ery.

11          “(4) NO MATCHING REQUIRED.—The Secretary  
12      may waive the matching requirements of section 312  
13      of this Act, section 308 of the Interjurisdictional  
14      Fisheries Act of 1986 (16 U.S.C. 4107), and any  
15      other provision of law under which the Federal share  
16      of the cost of any activity is limited to less than 100  
17      percent if the Secretary determines that—

18           “(A) no reasonable means are available  
19           through which applicants can meet the match-  
20           ing requirement; and

21           “(B) the probable benefit of 100 percent  
22           Federal financing outweighs the public interest  
23           in imposition of the matching requirement.

24          “(5) NET REVENUE LIMIT INAPPLICABLE.—  
25      Section 308(d)(3) of the Interjurisdictional Fisheries

1 Act (16 U.S.C. 4107(d)(3)) shall not apply to assist-  
2 ance under this section.

3 “(c) REGIONAL IMPACT EVALUATION.—Within 2  
4 months after a catastrophic regional fishery disaster the  
5 Secretary shall provide the Governor of each State partici-  
6 pating in the program a comprehensive economic and  
7 socio-economic evaluation of the affected region’s fisheries  
8 to assist the Governor in assessing the current and future  
9 economic viability of affected fisheries, including the eco-  
10 nomic impact of foreign fish imports and the direct, indi-  
11 rect, or environmental impact of the disaster on the fish-  
12 ery and coastal communities.

13 “(d) CATASTROPHIC REGIONAL FISHERY DISASTER  
14 DEFINED.—In this section the term ‘catastrophic regional  
15 fishery disaster’ means a natural disaster, including a hur-  
16 ricane or tsunami, or a regulatory closure (including regu-  
17 latory closures resulting from judicial action) to protect  
18 human health or the marine environment, that—

19 “(1) results in economic losses to coastal or  
20 fishing communities;

21 “(2) affects more than 1 State or a major fish-  
22 ery managed by a Council or interstate fishery com-  
23 mission; and

24 “(3) is determined by the Secretary to be a  
25 commercial fishery failure under section 312(a) of

1       this Act or a fishery resource disaster or section  
2       308(d) of the Interjurisdictional Fisheries Act of  
3       1986 (16 U.S.C. 4107(d)).”.

4       (b) SALMON PLAN AND STUDY.—

5           (1) RECOVERY PLAN.—Not later than 6 months  
6       after the date of enactment of this Act, the Sec-  
7       retary of Commerce shall complete a recovery plan  
8       for Klamath River Coho salmon and make it avail-  
9       able to the public.

10          (2) ANNUAL REPORT.—Not later than 2 years  
11       after the date of enactment of this Act, and annually  
12       thereafter, the Secretary of Commerce shall submit  
13       a report to the Senate Committee on Commerce,  
14       Science, and Transportation and the House of Rep-  
15       resentatives Committee on Resources on—

16           (A) the actions taken under the recovery  
17       plan and other law relating to recovery of  
18       Klamath River Coho salmon, and how those ac-  
19       tions are specifically contributing to its recov-  
20       ery;

21           (B) the progress made on the restoration  
22       of salmon spawning habitat, including water  
23       conditions as they relate to salmon health and  
24       recovery, with emphasis on the Klamath River  
25       and its tributaries below Iron Gate Dam;

1 (C) the status of other Klamath River  
2 anadromous fish populations, particularly Chi-  
3 nook salmon; and

4 (D) the actions taken by the Secretary to  
5 address the calendar year 2003 National Re-  
6 search Council recommendations regarding  
7 monitoring and research on Klamath River  
8 Basin salmon stocks.

9 (c) OREGON AND CALIFORNIA SALMON FISHERY.—  
10 Federally recognized Indian tribes and small businesses,  
11 including fishermen, fish processors, and related busi-  
12 nesses serving the fishing industry, adversely affected by  
13 Federal closures and fishing restrictions in the Oregon  
14 and California 2006 fall Chinook salmon fishery are eligi-  
15 ble to receive direct assistance under section 312(a) of the  
16 Magnuson-Stevens Fishery Conservation and Manage-  
17 ment Act (16 U.S.C. 1861a(a)) and section 308(d) of the  
18 Interjurisdictional Fisheries Act of 1986 (16 U.S.C.  
19 4107(d)). The Secretary may use no more than 4 percent  
20 of any monetary assistance to pay for administrative costs.

21 **SEC. 115. FISHERY FINANCE PROGRAM HURRICANE ASSIST-**  
22 **ANCE.**

23 (a) LOAN ASSISTANCE.—Subject to availability of ap-  
24 propriations, the Secretary of Commerce shall provide as-  
25 sistance to eligible holders of fishery finance program

1 loans and allocate such assistance among eligible holders  
2 based upon their outstanding principal balances as of De-  
3 cember 2, 2005, for any of the following purposes:

4 (1) To defer principal payments on the debt for  
5 1 year and re-amortize the debt over the remaining  
6 term of the loan.

7 (2) To allow for an extension of the term of the  
8 loan for up to 1 year beyond the remaining term of  
9 the loan, or September 30, 2013, whichever is later.

10 (3) To pay the interest costs for such loans over  
11 fiscal years 2006 through 2012, not to exceed  
12 amounts authorized under subsection (d).

13 (4) To provide opportunities for loan forgive-  
14 ness, as specified in subsection (c).

15 (b) LOAN FORGIVENESS.—

16 (1) IN GENERAL.—Upon application made by  
17 an eligible holder of a fishery finance program loan,  
18 made at such time, in such manner, and containing  
19 such information as the Secretary may require, the  
20 Secretary, on a calendar year basis beginning in  
21 2005, may—

22 (A) offset against the outstanding balance  
23 on the loan an amount equal to the sum of the  
24 amounts expended by the holder during the cal-  
25 endar year to repair or replace covered vessels

1 or facilities, or to invest in new fisheries infra-  
2 structure within or for use within the declared  
3 fisheries disaster area; or

4 (B) cancel the amount of debt equal to  
5 100 hundred percent of actual expenditures on  
6 eligible repairs, reinvestment, expansion, or new  
7 investment in fisheries infrastructure in the dis-  
8 aster region, or repairs to, or replacement of,  
9 eligible fishing vessels.

10 (c) DEFINITIONS.—In this section:

11 (1) DECLARED FISHERIES DISASTER AREA.—  
12 The term “declared fisheries disaster area” means  
13 fisheries located in the major disaster area des-  
14 ignated by the President under the Robert T. Staf-  
15 ford Disaster Relief and Emergency Assistance Act  
16 (42 U.S.C. 5121 et seq.) as a result of Hurricane  
17 Katrina or Hurricane Rita.

18 (2) ELIGIBLE HOLDER.—The term “eligible  
19 holder” means the holder of a fishery finance pro-  
20 gram loan if—

21 (A) that loan is used to guarantee or fi-  
22 nance any fishing vessel or fish processing facil-  
23 ity home-ported or located within the declared  
24 fisheries disaster area; and

1 (B) the holder makes expenditures to re-  
2 pair or replace such covered vessels or facilities,  
3 or invests in new fisheries infrastructure within  
4 or for use within the declared fisheries disaster  
5 area, to restore such facilities following the dis-  
6 aster.

7 (3) FISHERY FINANCE PROGRAM LOAN.—The  
8 term “fishery finance program loan” means a loan  
9 made or guaranteed under the fishery finance pro-  
10 gram under title XI of the Merchant Marine Act,  
11 1936, (46 U.S.C. App. 1271 et seq.).

12 (d) AUTHORIZATION OF APPROPRIATIONS.—There  
13 are authorized to be appropriated to the Secretary of Com-  
14 merce for the purposes of this section not more than  
15 \$15,000,000 for each eligible holder for the period begin-  
16 ning with fiscal year 2006 through fiscal year 2012.

17 **SEC. 116. SHRIMP FISHERIES HURRICANE ASSISTANCE**  
18 **PROGRAM.**

19 (a) IN GENERAL.—The Secretary of Commerce shall  
20 establish an assistance program for the Gulf of Mexico  
21 shrimp fishing industry.

22 (b) ALLOCATION OF FUNDS.—Under the program,  
23 the Secretary shall allocate funds appropriated to carry  
24 out the program among the States of Alabama, Louisiana,  
25 Florida, Mississippi, and Texas in proportion to the per-



1 centage of the shrimp catch landed by each State, except  
2 that the amount allocated to Florida shall be based exclu-  
3 sively on the proportion of such catch landed by the Flor-  
4 ida Gulf Coast fishery.

5 (c) USE OF FUNDS.—Of the amounts made available  
6 to each State under the program—

7 (1) 2 percent shall be retained by the State to  
8 be used for the distribution of additional payments  
9 to fishermen with a demonstrated record of compli-  
10 ance with turtle excluder and bycatch reduction de-  
11 vice regulations; and

12 (2) the remainder of the amounts shall be used  
13 for—

14 (A) personal assistance, with priority given  
15 to food, energy needs, housing assistance,  
16 transportation fuel, and other urgent needs;

17 (B) assistance for small businesses, includ-  
18 ing fishermen, fish processors, and related busi-  
19 nesses serving the fishing industry;

20 (C) domestic product marketing and sea-  
21 food promotion;

22 (D) State seafood testing programs;

23 (E) the development of limited entry pro-  
24 grams for the fishery;

1 (F) funding or other incentives to ensure  
2 widespread and proper use of turtle excluder  
3 devices and bycatch reduction devices in the  
4 fishery; and

5 (G) voluntary capacity reduction programs  
6 for shrimp fisheries under limited access pro-  
7 grams.

8 (d) AUTHORIZATION OF APPROPRIATIONS.—There  
9 are authorized to be appropriated to the Secretary of Com-  
10 merce \$17,500,000 for fiscal years 2006 through 2011 to  
11 carry out this section.

12 **SEC. 117. BYCATCH REDUCTION ENGINEERING PROGRAM.**

13 Title III (16 U.S.C. 1851 et seq.), as amended by  
14 section 114 of this Act, is further amended by adding at  
15 the end the following:

16 **“SEC. 316. BYCATCH REDUCTION ENGINEERING PROGRAM.**

17 “(a) BYCATCH REDUCTION ENGINEERING PRO-  
18 GRAM.—Not later than 1 year after the date of enactment  
19 of the Magnuson-Stevens Fishery Conservation and Man-  
20 agement Reauthorization Act of 2006, the Secretary, in  
21 cooperation with the Councils and other affected interests,  
22 and based upon the best scientific information available,  
23 shall establish a bycatch reduction program to develop  
24 technological devices and other conservation engineering  
25 changes designed to minimize bycatch, seabird bycatch,

1 bycatch mortality, and post-release mortality in Federally  
2 managed fisheries. The program shall—

3 “(1) be regionally based;

4 “(2) be coordinated with projects conducted  
5 under the cooperative research and management  
6 program established under this Act;

7 “(3) provide information and outreach to fish-  
8 ery participants that will encourage adoption and  
9 use of technologies developed under the program;  
10 and

11 “(4) provide for routine consultation with the  
12 Councils in order to maximize opportunities to incor-  
13 porate results of the program in Council actions and  
14 provide incentives for adoption of methods developed  
15 under the program in fishery management plans de-  
16 veloped by the Councils.

17 “(b) INCENTIVES.—Any fishery management plan  
18 prepared by a Council or by the Secretary may establish  
19 a system of incentives to reduce total bycatch and seabird  
20 bycatch amounts, bycatch rates, and post-release mortality  
21 in fisheries under the Council’s or Secretary’s jurisdiction,  
22 including—

23 “(1) measures to incorporate bycatch into  
24 quotas, including the establishment of collective or  
25 individual bycatch quotas;

1           “(2) measures to promote the use of gear with  
2           verifiable and monitored low bycatch and seabird by-  
3           catch rates; and

4           “(3) measures that, based on the best scientific  
5           information available, will reduce bycatch and  
6           seabird bycatch, bycatch mortality, post-release mor-  
7           tality, or regulatory discards in the fishery.

8           “(c) COORDINATION ON SEABIRD BYCATCH.—The  
9           Secretary, in coordination with the Secretary of Interior,  
10          is authorized to undertake projects in cooperation with in-  
11          dustry to improve information and technology to reduce  
12          seabird bycatch, including—

13           “(1) outreach to industry on new technologies  
14          and methods; and

15           “(2) projects to mitigate for seabird mor-  
16          tality.”.

17   **SEC. 118. COMMUNITY-BASED RESTORATION PROGRAM**  
18                   **FOR FISHERY AND COASTAL HABITATS.**

19          (a) IN GENERAL.—The Secretary of Commerce shall  
20          establish a community-based fishery and coastal habitat  
21          restoration program to implement and support the res-  
22          toration of fishery and coastal habitats.

23          (b) AUTHORIZED ACTIVITIES.—In carrying out the  
24          program, the Secretary may—

1           (1) provide funding and technical expertise to  
2           fishery and coastal communities to assist them in re-  
3           storing fishery and coastal habitat;

4           (2) advance the science and monitoring of  
5           coastal habitat restoration;

6           (3) transfer restoration technologies to the pri-  
7           vate sector, the public, and other governmental  
8           agencies;

9           (4) develop public-private partnerships to ac-  
10          complish sound coastal restoration projects;

11          (5) promote significant community support and  
12          volunteer participation in fishery and coastal habitat  
13          restoration;

14          (6) promote stewardship of fishery and coastal  
15          habitats; and

16          (7) leverage resources through national, re-  
17          gional, and local public-private partnerships.

18 **SEC. 119. PROHIBITED ACTS.**

19          Section 307(1) (16 U.S.C. 1857(1)) is amended—

20               (1) by striking “or” after the semicolon in sub-  
21               paragraph (O);

22               (2) by striking “carcass.” in subparagraph (P)  
23               and inserting “carcass;”; and

24               (3) by inserting after subparagraph (P) and be-  
25               fore the last sentence the following:

1           “(Q) to import, export, transport, sell, re-  
2           ceive, acquire, or purchase in interstate or for-  
3           eign commerce any fish taken, possessed, trans-  
4           ported, or sold in violation of any foreign law  
5           or regulation; or

6           “(R) to use any fishing vessel to engage in  
7           fishing in Federal or State waters, or on the  
8           high seas or in the waters of another country,  
9           after the Secretary has made a payment to the  
10          owner of that fishing vessel under section  
11          312(b)(2).”.

12 **SEC. 120. ENFORCEMENT.**

13          (a) CIVIL ENFORCEMENT.—Section 308 (16 U.S.C.  
14 1858) is amended—

15           (1) by striking “\$100,000” in subsection (a)  
16           and inserting “\$240,000”;

17           (2) by striking “this section,” in subsection (f)  
18           and inserting “this Act (or any other marine re-  
19           source law enforced by the Secretary),”;

20           (3) by inserting “a permit, or any interest in a  
21           permit,” in subsection (g)(3) after “vessel,” each  
22           place it appears;

23           (4) by striking “the vessel” in subsection (g)(3)  
24           and inserting “the vessel, permit, or interest”;

1           (5) by inserting “or any amount in settlement  
2           of a civil forfeiture,” after “criminal fine,” in sub-  
3           section (g)(4); and

4           (6) by striking “penalty or fine” in subsection  
5           (g)(4) and inserting “penalty, fine, or settlement  
6           amount”.

7           (b) CRIMINAL PENALTIES.—Section 309 (16 U.S.C.  
8           1859) is amended to read as follows:

9           **“SEC. 309. CRIMINAL PENALTIES.**

10          **“(a) FINES AND IMPRISONMENT.—**

11               “(1) IN GENERAL.—Any person (other than a  
12               foreign government or entity thereof) who knowingly  
13               violates subparagraph (D), (E), (F), (H), (I), or (L)  
14               of paragraph (1) of section 307, or paragraph (2) of  
15               section 307, shall be imprisoned for not more than  
16               5 years and fined—

17                       “(A) not more than \$500,000 if such per-  
18                       son is an individual; or

19                       “(B) not more than \$1,000,000 if such  
20                       person is a corporation or other legal entity  
21                       other than an individual.

22          **“(2) AGGRAVATED OFFENSES.—**Notwith-  
23               standing paragraph (1), the maximum term of im-  
24               prisonment shall be for not more than 10 years if—

25                       “(A) the violator is an individual; and

1           “(B) in the commission of a violation de-  
2           scribed in paragraph (1), that individual—

3           “(A) used a dangerous weapon;

4           “(B) engaged in conduct that caused bod-  
5           ily injury to any observer described in section  
6           307, any officer authorized to enforce the provi-  
7           sions of this Act under section 311, or any  
8           Council member or staff; or

9           “(C) placed any such observer, officer,  
10          Council member, or staff in fear of imminent  
11          bodily injury.

12          “(b) OTHER VIOLATIONS.—Any person (other than  
13          a foreign government or entity thereof) who knowingly vio-  
14          lates any other provision of section 307 shall be fined  
15          under title 18, United States Code, imprisoned for not  
16          more than 5 years, or both.

17          “(c) JURISDICTION.—

18                 “(1) IN GENERAL.—The district courts of the  
19          United States shall have jurisdiction over any action  
20          arising under this Act.

21                 “(2) VENUE.—For purposes of this Act—

22                         “(A) each violation of this Act shall con-  
23                         stitute a separate offense and the offense shall  
24                         be deemed to have been committed not only in



1 the district where it first occurred, but also in  
2 any other district as authorized by law;

3 “(B) any offense not committed within a  
4 judicial district of the United States is subject  
5 to the venue provisions of section 3238 of title  
6 18, United States Code; and

7 “(C) American Samoa shall be included  
8 within the judicial district of the United States  
9 District Court for the District of Hawaii.”.

10 (c) CIVIL FORFEITURES.—Section 310(a) (16 U.S.C.  
11 1860(a)) is amended—

12 (1) by striking “(other than any act for which  
13 the issuance of a citation under section 311(a) is  
14 sufficient sanction)”; and

15 (2) by striking “States.” and inserting “States,  
16 except that no fishing vessel shall be subject to for-  
17 feiture under this section as the result of any act for  
18 which the issuance of a citation under section 311(a)  
19 is sufficient sanction.”.

20 (d) ENFORCEMENT RESPONSIBILITY.—Section  
21 311(a) (16 U.S.C. 1861(a)) is amended—

22 (1) by striking “Act” and inserting “Act, and  
23 the provisions of any marine resource law adminis-  
24 tered by the Secretary,”; and

1           (2) by striking “State agency,” and inserting  
2           “agency of any State, Territory, Commonwealth, or  
3           Tribe,”.

4           (e) POWERS OF AUTHORIZED OFFICERS.—Section  
5   311(b) (16 U.S.C. 1861(b)) is amended by striking “Fed-  
6   eral or State”.

7           (f) PAYMENT OF STORAGE, CARE, AND OTHER  
8   COSTS.—Section 311(e)(1)(B) (16 U.S.C. 1861(e)(1)(B))  
9   is amended to read as follows:

10           “(B) a reward to any person who furnishes in-  
11       formation which leads to an arrest, conviction, civil  
12       penalty assessment, or forfeiture of property for any  
13       violation of any provision of this Act or any other  
14       marine resource law enforced by the Secretary of up  
15       to the lesser of—

16                   “(i) 20 percent of the penalty or fine col-  
17       lected; or

18                   “(ii) \$20,000;”.

## 19       **TITLE II—INFORMATION AND** 20       **RESEARCH**

### 21   **SEC. 201. RECREATIONAL FISHERIES INFORMATION.**

22       Section 401 (16 U.S.C. 1881) is amended by striking  
23   subsection (g) and inserting the following:

24       “(g) RECREATIONAL FISHERIES.—

1           “(1) FEDERAL PROGRAM.—The Secretary shall  
2       establish and implement a regionally based registry  
3       program for recreational fishermen in each of the 8  
4       fishery management regions. The program, which  
5       shall not require a fee before January 1, 2011, shall  
6       provide for—

7           “(A) the registration (including identifica-  
8       tion and contact information) of individuals  
9       who engage in recreational fishing—

10           “(i) in the Exclusive Economic Zone;

11           “(ii) for anadromous species; or

12           “(iii) for Continental Shelf fishery re-  
13       sources beyond the Exclusive Economic  
14       Zone; and

15           “(B) if appropriate, the registration (in-  
16       cluding the ownership, operator, and identifica-  
17       tion of the vessel) of vessels used in such fish-  
18       ing.

19           “(2) STATE PROGRAMS.—The Secretary shall  
20       exempt from registration under the program rec-  
21       reational fishermen and charter fishing vessels li-  
22       censed, permitted, or registered under the laws of a  
23       State if the Secretary determines that information  
24       from the State program is suitable for the Sec-  
25       retary’s use or is used to assist in completing marine

1 recreational fisheries statistical surveys, or evalu-  
2 ating the effects of proposed conservation and man-  
3 agement measures for marine recreational fisheries.

4 “(3) DATA COLLECTION.—

5 “(A) IMPROVEMENT OF THE MARINE REC-  
6 REATIONAL FISHERY STATISTICS SURVEY.—

7 Within 24 months after the date of enactment  
8 of the Magnuson-Stevens Fishery Conservation  
9 and Management Reauthorization Act of 2006,  
10 the Secretary, in consultation with representa-  
11 tives of the recreational fishing industry and ex-  
12 perts in statistics, technology, and other appro-  
13 priate fields, shall establish a program to im-  
14 prove the quality and accuracy of information  
15 generated by the Marine Recreational Fishery  
16 Statistics Survey, with a goal of achieving ac-  
17 ceptable accuracy and utility for each individual  
18 fishery.

19 “(B) NRC REPORT RECOMMENDATIONS.—

20 The program shall take into consideration and,  
21 to the maximum extent feasible, implement the  
22 recommendations of the National Research  
23 Council in its report *Review of Recreational*  
24 *Fisheries Survey Methods* (2006), including—

1 “(i) redesigning the Survey to improve  
2 the effectiveness and appropriateness of  
3 sampling and estimation procedures, its  
4 applicability to various kinds of manage-  
5 ment decisions, and its usefulness for so-  
6 cial and economic analyses; and

7 “(ii) providing for ongoing technical  
8 evaluation and modification as needed to  
9 meet emerging management needs.

10 “(C) METHODOLOGY.—Unless the Sec-  
11 retary determines that alternate methods will  
12 achieve this goal more efficiently and effec-  
13 tively, the program shall, to the extent possible,  
14 include—

15 “(i) an adequate number of dockside  
16 interviews to accurately estimate rec-  
17 reational catch and effort;

18 “(ii) use of surveys that target anglers  
19 registered or licensed at the State or Fed-  
20 eral level to collect participation and effort  
21 data;

22 “(iii) collection and analysis of vessel  
23 trip report data from charter fishing ves-  
24 sels; and

1 “(iv) development of a weather correc-  
2 tive factor that can be applied to rec-  
3 reational catch and effort estimates.

4 “(D) DEADLINE.—The Secretary shall  
5 complete the program under this paragraph and  
6 implement the improved Marine Recreational  
7 Fishery Statistics Survey not later than Janu-  
8 ary 1, 2011.

9 “(4) REPORT.—Within 24 months after estab-  
10 lishment of the program, the Secretary shall submit  
11 a report to Congress that describes the progress  
12 made toward achieving the goals and objectives of  
13 the program.”.

14 **SEC. 202. COLLECTION OF INFORMATION.**

15 Section 402(a) (16 U.S.C. 1881a(a)) is amended—

16 (1) by striking “(a) COUNCIL REQUESTS.—” in  
17 the subsection heading and inserting “(a) COLLEC-  
18 TION PROGRAMS.—”;

19 (2) by resetting the text following “(a) COLLEC-  
20 TION PROGRAMS.—” as a new paragraph 2 ems  
21 from the left margin;

22 (3) by inserting “(1) COUNCIL REQUESTS.—”  
23 before “If a Council”;

24 (4) by striking “subsection” in the last sentence  
25 and inserting “paragraph”;

1           (5) by striking “(other than information that  
2           would disclose proprietary or confidential commercial  
3           or financial information regarding fishing operations  
4           or fish processing operations)” each place it appears;  
5           and

6           (6) by adding at the end the following:

7           “(2) SECRETARIAL INITIATION.—If the Sec-  
8           retary determines that additional information is nec-  
9           essary for developing, implementing, revising, or  
10          monitoring a fishery management plan, or for deter-  
11          mining whether a fishery is in need of management,  
12          the Secretary may, by regulation, implement an in-  
13          formation collection or observer program requiring  
14          submission of such additional information for the  
15          fishery.”.

16 **SEC. 203. ACCESS TO CERTAIN INFORMATION.**

17          (a) IN GENERAL.—Section 402(b) (16 U.S.C.  
18 1881a(b)) is amended—

19               (1) by redesignating paragraph (2) as para-  
20               graph (3) and resetting it 2 ems from the left mar-  
21               gin;

22               (2) by striking all preceding paragraph (3), as  
23               redesignated, and inserting the following:

24               “(b) CONFIDENTIALITY OF INFORMATION.—

1           “(1) Any information submitted to the Sec-  
2       retary, a state fishery management agency, or a ma-  
3       rine fisheries commission by any person in compli-  
4       ance with the requirements of this Act that contains  
5       confidential information shall be confidential and  
6       shall be exempt from disclosure under section  
7       552(b)(3) of title 5, United States Code, except—

8           “(A) to Federal employees and Council em-  
9       ployees who are responsible for fishery manage-  
10      ment plan development, monitoring, or enforce-  
11      ment;

12          “(B) to State or Marine Fisheries Commis-  
13      sion employees as necessary to further the De-  
14      partment’s mission, subject to a confidentiality  
15      agreement that prohibits public disclosure of  
16      confidential information relating to any person;

17          “(C) to State employees who are respon-  
18      sible for fishery management plan enforcement,  
19      if the States employing those employees have  
20      entered into a fishery enforcement agreement  
21      with the Secretary and the agreement is in ef-  
22      fect;

23          “(D) when such information is used by  
24      State, Council, or Marine Fisheries Commission  
25      employees to verify catch under a limited access



1           program, but only to the extent that such use  
2           is consistent with subparagraph (B);

3           “(E) when the Secretary has obtained  
4           written authorization from the person submit-  
5           ting such information to release such informa-  
6           tion to persons for reasons not otherwise pro-  
7           vided for in this subsection, and such release  
8           does not violate other requirements of this Act;

9           “(F) when such information is required to  
10          be submitted to the Secretary for any deter-  
11          mination under a limited access program; or

12          “(G) in support of homeland and national  
13          security activities, including the Coast Guard’s  
14          homeland security missions as defined in sec-  
15          tion 888(a)(2) of the Homeland Security Act of  
16          2002 (6 U.S.C. 468(a)(2)).

17          “(2) Any observer information shall be con-  
18          fidential and shall not be disclosed, except in accord-  
19          ance with the requirements of subparagraphs (A)  
20          through (G) of paragraph (1), or—

21          “(A) as authorized by a fishery manage-  
22          ment plan or regulations under the authority of  
23          the North Pacific Council to allow disclosure to  
24          the public of weekly summary bycatch informa-

1           tion identified by vessel or for haul-specific by-  
2           catch information without vessel identification;

3           “(B) when such information is necessary  
4           in proceedings to adjudicate observer certifi-  
5           cations; or

6           “(C) as authorized by any regulations  
7           issued under paragraph (3) allowing the collec-  
8           tion of observer information, pursuant to a con-  
9           fidentiality agreement between the observers,  
10          observer employers, and the Secretary prohib-  
11          iting disclosure of the information by the ob-  
12          servers or observer employers, in order—

13               “(i) to allow the sharing of observer  
14               information among observers and between  
15               observers and observer employers as nec-  
16               essary to train and prepare observers for  
17               deployments on specific vessels; or

18               “(ii) to validate the accuracy of the  
19               observer information collected.”; and

20          (3) by striking “(1)(E).” in paragraph (3), as  
21          redesignated, and inserting “(2)(A).”.

22          (b) CONFORMING AMENDMENT.—Section 404(c)(4)  
23          (16 U.S.C. 1881c(c)(4)) is amended by striking “under  
24          section 401”.

1   **SEC. 204. COOPERATIVE RESEARCH AND MANAGEMENT**  
2                   **PROGRAM.**

3           Title III (16 U.S.C. 1851 et seq.), as amended by  
4   section 115, is further amended by adding at the end the  
5   following:

6   **“SEC. 317. COOPERATIVE RESEARCH AND MANAGEMENT**  
7                   **PROGRAM.**

8           “(a) IN GENERAL.—The Secretary of Commerce, in  
9   consultation with the Councils, shall establish a coopera-  
10   tive research and management program to address needs  
11   identified under this Act and under any other marine re-  
12   source laws enforced by the Secretary. The program shall  
13   be implemented on a regional basis and shall be developed  
14   and conducted through partnerships among Federal,  
15   State, and Tribal managers and scientists (including inter-  
16   state fishery commissions), fishing industry participants,  
17   and educational institutions.

18          “(b) ELIGIBLE PROJECTS.—The Secretary shall  
19   make funds available under the program for the support  
20   of projects to address critical needs identified by the Coun-  
21   cils in consultation with the Secretary. The program shall  
22   promote and encourage efforts to utilize sources of data  
23   maintained by other Federal agencies, State agencies, or  
24   academia for use in such projects.

25          “(c) FUNDING.—In making funds available the Sec-  
26   retary shall award funding on a competitive basis and

1 based on regional fishery management needs, select pro-  
2 grams that form part of a coherent program of research  
3 focused on solving priority issues identified by the Coun-  
4 cils, and shall give priority to the following projects:

5 “(1) Projects to collect data to improve, supple-  
6 ment, or enhance stock assessments, including the  
7 use of fishing vessels or acoustic or other marine  
8 technology.

9 “(2) Projects to assess the amount and type of  
10 bycatch or post-release mortality occurring in a fish-  
11 ery.

12 “(3) Conservation engineering projects designed  
13 to reduce bycatch, including avoidance of post-re-  
14 lease mortality, reduction of bycatch in high seas  
15 fisheries, and transfer of such fishing technologies to  
16 other nations.

17 “(4) Projects for the identification of habitat  
18 areas of particular concern and for habitat conserva-  
19 tion.

20 “(5) Projects designed to collect and compile  
21 economic and social data.

22 “(d) EXPERIMENTAL PERMITTING PROCESS.—Not  
23 later than 180 days after the date of enactment of the  
24 Magnuson-Stevens Fishery Conservation and Manage-  
25 ment Reauthorization Act of 2006, the Secretary, in con-

1 sultation with the Councils, shall promulgate regulations  
2 that create an expedited, uniform, and regionally-based  
3 process to promote issuance, where practicable, of experi-  
4 mental fishing permits.

5 “(e) GUIDELINES.—The Secretary, in consultation  
6 with the Councils, shall establish guidelines to ensure that  
7 participation in a research project funded under this sec-  
8 tion does not result in loss of a participant’s catch history  
9 or unexpended days-at-sea as part of a limited entry sys-  
10 tem.

11 “(f) EXEMPTED PROJECTS.—The procedures of this  
12 section shall not apply to research funded by quota set-  
13 asides in a fishery.”.

14 **SEC. 205. HERRING STUDY.**

15 Title III (16 U.S.C. 1851 et seq.), as amended by  
16 section 204, is further amended by adding at the end the  
17 following:

18 **“SEC. 318. HERRING STUDY.**

19 “(a) IN GENERAL.—The Secretary may conduct a co-  
20 operative research program to study the issues of abun-  
21 dance, distribution and the role of herring as forage fish  
22 for other commercially important fish stocks in the North-  
23 west Atlantic, and the potential for local scale depletion  
24 from herring harvesting and how it relates to other fish-  
25 eries in the Northwest Atlantic. In planning, designing,

1 and implementing this program, the Secretary shall en-  
2 gage multiple fisheries sectors and stakeholder groups  
3 concerned with herring management.

4 “(b) REPORT.—The Secretary shall present the final  
5 results of this study to Congress within 3 months following  
6 the completion of the study, and an interim report at the  
7 end of fiscal year 2008.

8 “(c) AUTHORIZATION OF APPROPRIATIONS.—There  
9 are authorized to be appropriated \$2,000,000 for fiscal  
10 year 2007 through fiscal year 2009 to conduct this  
11 study.”.

12 **SEC. 206. RESTORATION STUDY.**

13 Title III (16 U.S.C. 1851 et seq.), as amended by  
14 section 205, is further amended by adding at the end the  
15 following:

16 **“SEC. 319. RESTORATION STUDY.**

17 “(a) IN GENERAL.—The Secretary may conduct a  
18 study to update scientific information and protocols need-  
19 ed to improve restoration techniques for a variety of coast  
20 habitat types and synthesize the results in a format easily  
21 understandable by restoration practitioners and local com-  
22 munities.

23 “(b) AUTHORIZATION OF APPROPRIATIONS.—There  
24 are authorized to be appropriated \$500,000 for fiscal year  
25 2007 to conduct this study.”.

1 **SEC. 207. WESTERN PACIFIC FISHERY DEMONSTRATION**  
2 **PROJECTS.**

3 Section 111(b) of the Sustainable Fisheries Act (16  
4 U.S.C. 1855 note) is amended—

5 (1) by striking “and the Secretary of the Inte-  
6 rior are” in paragraph (1) and inserting “is”;

7 (2) by striking “not less than three and not  
8 more than five” in paragraph (1); and

9 (3) by striking paragraph (6) and inserting the  
10 following:

11 “(6) In this subsection the term ‘Western Pa-  
12 cific community’ means a community eligible to par-  
13 ticipate under section 305(i)(2)(B)(i) through (iv) of  
14 the Magnuson-Stevens Fishery Conservation and  
15 Management Act (16 U.S.C. 1855(i)(2)(B)(i)  
16 through (iv)).”.

17 **SEC. 208. FISHERIES CONSERVATION AND MANAGEMENT**  
18 **FUND.**

19 (a) IN GENERAL.—The Secretary shall establish and  
20 maintain a fund, to be known as the “Fisheries Conserva-  
21 tion and Management Fund”, which shall consist of  
22 amounts retained and deposited into the Fund under sub-  
23 section (c).

24 (b) PURPOSES.—Subject to the allocation of funds  
25 described in subsection (d), amounts in the Fund shall be  
26 available to the Secretary of Commerce, without appro-

1 priation or fiscal year limitation, to disburse as described  
2 in subsection (e) for—

3 (1) efforts to improve fishery harvest data col-  
4 lection including—

5 (A) expanding the use of electronic catch  
6 reporting programs and technology; and

7 (B) improvement of monitoring and ob-  
8 server coverage through the expanded use of  
9 electronic monitoring devices and satellite track-  
10 ing systems such as VMS on small vessels;

11 (2) cooperative fishery research and analysis, in  
12 collaboration with fishery participants, academic in-  
13 stitutions, community residents, and other interested  
14 parties;

15 (3) development of methods or new technologies  
16 to improve the quality, health safety, and value of  
17 fish landed;

18 (4) conducting analysis of fish and seafood for  
19 health benefits and risks, including levels of con-  
20 taminants and, where feasible, the source of such  
21 contaminants;

22 (5) marketing of sustainable United States fish-  
23 ery products, including consumer education regard-  
24 ing the health or other benefits of wild fishery prod-  
25 ucts harvested by vessels of the United States;



1           (6) improving data collection under the Marine  
2       Recreational Fishery Statistics Survey in accordance  
3       with section 401(g)(3) of the Magnuson-Stevens  
4       Fishery Conservation and Management Act (16  
5       U.S.C. 1881(g)(3)); and

6           (7) providing financial assistance to fishermen  
7       to offset the costs of modifying fishing practices and  
8       gear to meet the requirements of this Act, the Mag-  
9       nuson-Stevens Fishery Conservation and Manage-  
10      ment Act (16 U.S.C. 1801 et seq.), and other Fed-  
11      eral laws in pari materia.

12      (c) DEPOSITS TO THE FUND.—

13           (1) QUOTA SET-ASIDES.—Any amount gen-  
14      erated through quota set-asides established by a  
15      Council under the Magnuson-Stevens Fishery Con-  
16      servation and Management Act (16 U.S.C. 1801 et  
17      seq.) and designated by the Council for inclusion in  
18      the Fishery Conservation and Management Fund,  
19      may be deposited in the Fund.

20           (2) OTHER FUNDS.—In addition to amounts re-  
21      ceived pursuant to paragraph (1) of this subsection,  
22      the Fishery Conservation and Management Fund  
23      may also receive funds from—

24           (A) appropriations for the purposes of this  
25      section; and

1 (B) States or other public sources or pri-  
2 vate or non-profit organizations for purposes of  
3 this section.

4 (d) REGIONAL ALLOCATION.—The Secretary shall,  
5 every 2 years, apportion monies from the Fund among the  
6 eight Council regions according to recommendations of the  
7 Councils, based on regional priorities identified through  
8 the Council process, except that no region shall receive less  
9 than 5 percent of the Fund in each allocation period.

10 (e) LIMITATION ON THE USE OF THE FUND.—No  
11 amount made available from the Fund may be used to de-  
12 fray the costs of carrying out requirements of this Act or  
13 the Magnuson-Stevens Fishery Conservation and Manage-  
14 ment Act (16 U.S.C. 1801 et seq.) other than those uses  
15 identified in this section.

16 **SEC. 209. USE OF FISHERY FINANCE PROGRAM AND CAP-**  
17 **ITAL CONSTRUCTION FUND FOR SUSTAIN-**  
18 **ABLE PURPOSES.**

19 (a) PURPOSE OF FISHERY FINANCE PROGRAM OBLI-  
20 GATIONS.—Section 1104A(a)(7) of the Merchant Marine  
21 Act, 1936 (46 U.S.C. App. 1274(a)(7)) is amended to  
22 read as follows:

23 “(7) financing or refinancing including,  
24 “(A) the reimbursement of obligors for ex-  
25 penditures previously made, for the purchase of

1 individual fishing quotas in accordance with  
2 section 303(d)(4) of the Magnuson-Stevens  
3 Fishery Conservation and Management Act;

4 “(B) activities that assist in the transition  
5 to reduced fishing capacity; or

6 “(C) technologies or upgrades designed to  
7 improve collection and reporting of fishery-de-  
8 pendent data, to reduce bycatch, to improve se-  
9 lectivity or reduce adverse impacts of fishing  
10 gear, or to improve safety.”.

11 (b) EXPANSION OF PURPOSES FOR QUALIFIED  
12 WITHDRAWALS.—Section 607(f)(1) of the Merchant Ma-  
13 rine Act, 1936 (46 U.S.C. App. 1177(f)(1)) is amended—

14 (1) by striking “for:” and inserting “for—”;

15 (B) by striking “vessel,” in subparagraph (A)  
16 and inserting “vessel;”;

17 (C) by striking “vessel, or” in subparagraph  
18 (B) and inserting “vessel;”;

19 (D) by striking “vessel.” in subparagraph (C)  
20 and inserting “vessel;” and

21 (E) by inserting after subparagraph (C) the fol-  
22 lowing:

23 “(D) in the case of any person for whose  
24 benefit the fund was established and who par-  
25 ticipates in the fishing capacity reduction pro-

1           gram under section 312 of the Magnuson-Ste-  
2           vens Fishery Conservation and Management  
3           Act (16 U.S.C. 1861a)—

4                   “(i) if such person remains in the  
5                   fishery, the satisfaction of any debt obliga-  
6                   tion undertaken pursuant to such program;  
7                   and

8                   “(ii) if such person withdraws 1 or  
9                   more vessels from the fishery, the substi-  
10                  tution of amounts the person would other-  
11                  wise receive under such program for such  
12                  person’s vessel or permit to engage in the  
13                  fishery;

14                  “(E) the repair, maintenance, or upgrade  
15                  of an eligible vessel or its equipment for the  
16                  purpose of—

17                   “(i) making conservation engineering  
18                   changes to reduce bycatch, improve selec-  
19                   tivity of fishing gear, or reduce adverse im-  
20                   pacts of fishing gear;

21                   “(ii) improving vessel safety; or

22                   “(iii) acquiring, installing, or upgrad-  
23                   ing equipment to improve collection, re-  
24                   porting, or accuracy of fishery data; or

1           “(F) the acquisition, construction, recon-  
2           struction, upgrading, or investment in shoreside  
3           fishery-related facilities or infrastructure in the  
4           United States for the purpose of promoting  
5           United States ownership of fishery-related fa-  
6           cilities in the United States without contrib-  
7           uting to overcapacity in the sector.”.

8   **SEC. 210. REGIONAL ECOSYSTEM RESEARCH.**

9           Section 406 (16 U.S.C. 1882) is amended by adding  
10   at the end the following:

11       “(f) REGIONAL ECOSYSTEM RESEARCH.—

12           “(1) STUDY.—Within 180 days after the date  
13           of enactment of the Magnuson-Stevens Fishery Con-  
14           servation and Management Reauthorization Act of  
15           2006, the Secretary, in consultation with the Coun-  
16           cils, shall undertake and complete a study on the  
17           state of the science for advancing the concepts and  
18           integration of ecosystem considerations in regional  
19           fishery management. The study should build upon  
20           the recommendations of the advisory panel and in-  
21           clude—

22           “(A) recommendations for scientific data,  
23           information and technology requirements for  
24           understanding ecosystem processes, and meth-

1           ods for integrating such information from a va-  
2           riety of federal, state, and regional sources;

3           “(B) recommendations for processes for in-  
4           corporating broad stake holder participation;

5           “(C) recommendations for processes to ac-  
6           count for effects of environmental variation on  
7           fish stocks and fisheries; and

8           “(D) a description of existing and devel-  
9           oping council efforts to implement ecosystem  
10          approaches, including lessons learned by the  
11          councils.

12          “(2) AGENCY TECHNICAL ADVICE AND ASSIST-  
13          ANCE, REGIONAL PILOT PROGRAMS.—The Secretary  
14          is authorized to provide necessary technical advice  
15          and assistance, including grants, to the Councils for  
16          the development and design of regional pilot pro-  
17          grams that build upon the recommendations of the  
18          advisory panel and, when completed, the study.”.

19   **SEC. 211. DEEP SEA CORAL RESEARCH AND TECHNOLOGY**  
20                   **PROGRAM.**

21          Title IV (16 U.S.C. 1881 et seq.) is amended by add-  
22          ing at the end the following:

1   **“SEC. 408. DEEP SEA CORAL RESEARCH AND TECHNOLOGY**  
2                   **PROGRAM.**

3           “(a) IN GENERAL.—The Secretary, in consultation  
4 with appropriate regional fishery management councils  
5 and in coordination with other federal agencies and edu-  
6 cational institutions, shall establish a program—

7                   “(1) to identify existing research on, and known  
8 locations of, deep sea corals and submit such infor-  
9 mation to the appropriate Councils;

10                   “(2) to locate and map locations of deep sea  
11 corals and submit such information to the Councils;

12                   “(3) to monitor activity in locations where deep  
13 sea corals are known or likely to occur, based on  
14 best scientific information available, including  
15 through underwater or remote sensing technologies  
16 and submit such information to the appropriate  
17 Councils;

18                   “(4) to conduct research, including cooperative  
19 research with fishing industry participants, on deep  
20 sea corals and related species, and on survey meth-  
21 ods;

22                   “(5) to develop technologies or methods de-  
23 signed to assist fishing industry participants in re-  
24 ducing interactions between fishing gear and deep  
25 sea corals; and

1           “(6) to prioritize program activities in areas  
2       where deep sea corals are known to occur, and in  
3       areas where scientific modeling or other methods  
4       predict deep sea corals are likely to be present.

5       “(b) REPORTING.—Beginning 1 year after the date  
6       of enactment of the Magnuson-Stevens Fishery Conserva-  
7       tion and Management Reauthorization Act of 2006, the  
8       Secretary, in consultation with the Councils, shall submit  
9       biennial reports to Congress and the public on steps taken  
10      by the Secretary to identify and monitor, and the Councils  
11      to protect, deep sea coral areas, including summaries of  
12      the results of mapping, research, and data collection per-  
13      formed under the program.”.

14   **SEC. 212. IMPACT OF TURTLE EXCLUDER DEVICES ON**  
15                   **SHRIMPING.**

16       (a) IN GENERAL.—The Undersecretary of Commerce  
17      for Oceans and Atmosphere shall execute an agreement  
18      with the National Academy of Sciences to conduct, jointly,  
19      a multi-year, comprehensive in-water study designed—

20           (1) to measure accurately the efforts and ef-  
21      fects of shrimp fishery efforts to utilize turtle ex-  
22      cluder devices;

23           (2) to analyze the impact of those efforts on sea  
24      turtle mortality, including interaction between tur-  
25      tles and shrimp trawlers in the inshore, nearshore,



1 and offshore waters of the Gulf of Mexico and simi-  
2 lar geographical locations in the waters of the  
3 Southeastern United States; and

4 (3) to evaluate innovative technologies to in-  
5 crease shrimp retention in turtle excluder devices  
6 while ensuring the protection of endangered and  
7 threatened sea turtles.

8 (b) OBSERVERS.—In conducting the study, the Un-  
9 dersecretary shall ensure that observers are placed on-  
10 board commercial shrimp fishing vessels where appro-  
11 priate or necessary.

12 (c) INTERIM REPORTS.—During the course of the  
13 study and until a final report is submitted to the Senate  
14 Committee on Commerce, Science, and Transportation  
15 and the House of Representatives Committee on Re-  
16 sources, the National Academy of Sciences shall transmit  
17 interim reports to the Committees biannually containing  
18 a summary of preliminary findings and conclusions from  
19 the study.

20 **SEC. 213. HURRICANE EFFECTS ON SHRIMP AND OYSTER**  
21 **FISHERIES AND HABITATS.**

22 (a) FISHERIES REPORT.—Within 180 days after the  
23 date of enactment of this Act, the Secretary of Commerce  
24 shall transmit a report to the Senate Committee on Com-  
25 merce, Science, and Transportation and the House of Rep-

1 representatives Committee on Resources on the impact of  
2 Hurricane Katrina, Hurricane Rita, and Hurricane Wilma  
3 on—

4 (1) commercial and recreational fisheries in the  
5 States of Alabama, Louisiana, Florida, Mississippi,  
6 and Texas;

7 (2) shrimp fishing vessels in those States; and

8 (3) the oyster industry in those States.

9 (b) HABITAT REPORT.—Within 180 days after the  
10 date of enactment of this Act, the Secretary of Commerce  
11 shall transmit a report to the Senate Committee on Com-  
12 merce, Science, and Transportation and the House of Rep-  
13 resentatives Committee on Resources on the impact of  
14 Hurricane Katrina, Hurricane Rita, and Hurricane Wilma  
15 on habitat, including the habitat of shrimp and oysters  
16 in those States.

17 (c) HABITAT RESTORATION.—The Secretary shall  
18 carry out activities to restore fishery habitats, including  
19 the shrimp and oyster habitats in Louisiana and Mis-  
20 sissippi.

21 **SEC. 214. NORTHWEST PACIFIC FISHERIES CONSERVATION.**

22 Section 313 (16 U.S.C. 1862) is amended—

23 (1) by striking “all fisheries under the Council’s  
24 jurisdiction except salmon fisheries” in subsection

1 (a) and inserting “any fishery under the Council’s  
2 jurisdiction except a salmon fishery”;

3 (2) by striking subsection (a)(2) and inserting  
4 the following:

5 “(2) establishes a system, or system, of fees,  
6 which may vary by fishery, management area, or ob-  
7 server coverage level, to pay for the cost of imple-  
8 menting the plan.”;

9 (3) by striking “observers” in subsection  
10 (b)(2)(A) and inserting “observers, or electronic  
11 monitoring systems,”;

12 (4) by inserting “a fixed amount reflecting ac-  
13 tual observer costs as described in subparagraph (A)  
14 or” in subsection (b)(2)(E) after “expressed as”;

15 (5) by inserting “some or” in subsection  
16 (b)(2)(F) after “against”;

17 (6) by inserting “or an electronic monitoring  
18 system” after “observer” in subsection (b)(2)(F);

19 (7) by striking “and” after the semicolon in  
20 subsection (b)(2)(H); and

21 (8) by redesignating subparagraph (I) of sub-  
22 section (b)(2) as subparagraph (J) and inserting  
23 after subparagraph (H) the following:

24 “(I) provide that fees collected will be credited  
25 against any fee for stationing observers or electronic

1 monitoring systems on board fishing vessels and  
2 United States fish processors and the actual cost of  
3 inputting collected data to which a fishing vessel or  
4 fish processor is subject under section 304(d) of this  
5 Act; and”.

6 **SEC. 215. NEW ENGLAND GROUND FISH FISHERY.**

7 (a) REVIEW.—The Secretary of Commerce shall con-  
8 duct a unique, thorough examination of the potential im-  
9 pact on all affected and interested parties of Framework  
10 42 to the Northeast Multispecies Fishery Management  
11 Plan.

12 (b) REPORT.—The Secretary shall report the Sec-  
13 retary’s findings under subsection (a) within 30 days after  
14 the date of enactment of this Act. The Secretary shall in-  
15 clude in the report a detailed discussion of each of the  
16 following:

17 (1) The economic and social implications for af-  
18 fected parties within the fishery, including potential  
19 losses to infrastructure, expected from the imposi-  
20 tion of Framework 42.

21 (2) The estimated average annual income gen-  
22 erated by fishermen in New England, separated by  
23 State and vessel size, and the estimated annual in-  
24 come expected after the imposition of Framework  
25 42.

1           (3) Whether the differential days-at-sea count-  
2           ing imposed by Framework 42 would result in a re-  
3           duction in the number of small vessels actively par-  
4           ticipating in the New England Fishery.

5           (4) The percentage and approximate number of  
6           vessels in the New England fishery, separated by  
7           State and vessel type, that are incapable of fishing  
8           outside the areas designated in Framework 42 for  
9           differential days-at-sea counting.

10          (5) The percentage of the annual groundfish  
11          catch in the New England fishery that is harvested  
12          by small vessels.

13          (6) The current monetary value of groundfish  
14          permits in the New England fishery and the actual  
15          impact that the potential imposition of Framework  
16          42 is having on such value.

17          (7) Whether permitting days-at-sea to be leased  
18          is altering the market value for groundfish permits  
19          or days-at-sea in New England.

20          (8) Whether there is a substantially high prob-  
21          ability that the biomass targets used as a basis for  
22          Amendment 13 remain achievable.

23          (9) An identification of the year in which the  
24          biomass targets used as a basis for Amendment 13

1       were last evident or achieved, and the evidence used  
2       to determine such date.

3           (10) Any separate or non-fishing factors, in-  
4       cluding environmental factors, that may be leading  
5       to a slower rebuilding of groundfish than previously  
6       anticipated.

7           (11) The potential harm to the non-fishing en-  
8       vironment and ecosystem from the reduction in fish-  
9       ing resulting from Framework 42 and the potential  
10      redevelopment of the coastal land for other purposes,  
11      including potential for increases in non-point source  
12      of pollution and other impacts.

13   **SEC. 216. REPORT ON COUNCIL MANAGEMENT COORDINA-**  
14                   **TION.**

15      The Mid-Atlantic Fishery Council, in consultation  
16   with the New England Fishery Council, shall submit a re-  
17   port to the Senate Committee on Commerce, Science, and  
18   Transportation within 9 months after the date of enact-  
19   ment of this Act—

20           (1) describing the role of council liaisons be-  
21      tween the Mid-Atlantic and New England Councils,  
22      including an explanation of council policies regarding  
23      the liaison's role in Council decision-making since  
24      1996;

1           (2) describing how management actions are  
2       taken regarding the operational aspects of current  
3       joint fishery management plans, and how such joint  
4       plans may undergo changes through amendment or  
5       framework processes;

6           (3) evaluating the role of the New England  
7       Fishery Council and the Mid-Atlantic Fishery Coun-  
8       cil liaisons in the development and approval of man-  
9       agement plans for fisheries in which the liaisons or  
10      members of the non-controlling Council have a dem-  
11      onstrated interest and significant current and histor-  
12      ical landings of species managed by either Council;

13          (4) evaluating the effectiveness of the various  
14      approaches developed by the Councils to improve  
15      representation for affected members of the non-con-  
16      trolling Council in Council decision-making, such as  
17      use of liaisons, joint management plans, and other  
18      policies, taking into account both the procedural and  
19      conservation requirements of the Magnuson-Stevens  
20      Fishery Conservation and Management Act; and

21          (5) analyzing characteristics of North Carolina  
22      and Florida that supported their inclusion as voting  
23      members of more than one Council and the extent  
24      to which those characteristics support Rhode Is-

1 land's inclusion on a second Council (the Mid-Atlan-  
2 tic Council).

3 **TITLE III—OTHER FISHERIES**  
4 **STATUTES**

5 **SEC. 301. AMENDMENTS TO NORTHERN PACIFIC HALIBUT**  
6 **ACT.**

7 (a) CIVIL PENALTIES.—Section 8(a) of the Northern  
8 Pacific Halibut Act of 1982 (16 U.S.C. 773f(a)) is amend-  
9 ed—

10 (1) by striking “\$25,000” and inserting  
11 “\$200,000”;

12 (2) by striking “violation, the degree of culpa-  
13 bility, and history of prior offenses, ability to pay,”  
14 in the fifth sentence and inserting “violator, the de-  
15 gree of culpability, any history of prior offenses,”;  
16 and

17 (3) by adding at the end the following: “In as-  
18 sessing such penalty, the Secretary may also con-  
19 sider any information provided by the violator relat-  
20 ing to the ability of the violator to pay if the infor-  
21 mation is provided to the Secretary at least 30 days  
22 prior to an administrative hearing.”.

23 (b) PERMIT SANCTIONS.—Section 8 of the Northern  
24 Pacific Halibut Act of 1982 (16 U.S.C. 773f) is amended  
25 by adding at the end the following:



1       “(e) REVOCATION OR SUSPENSION OF PERMIT.—

2               “(1) IN GENERAL.—The Secretary may take  
3       any action described in paragraph (2) in any case in  
4       which—

5               “(A) a vessel has been used in the commis-  
6       sion of any act prohibited under section 7;

7               “(B) the owner or operator of a vessel or  
8       any other person who has been issued or has  
9       applied for a permit under this Act has acted  
10      in violation of section 7; or

11              “(C) any amount in settlement of a civil  
12      forfeiture imposed on a vessel or other property,  
13      or any civil penalty or criminal fine imposed on  
14      a vessel or owner or operator of a vessel or any  
15      other person who has been issued or has ap-  
16      plied for a permit under any marine resource  
17      law enforced by the Secretary has not been paid  
18      and is overdue.

19              “(2) PERMIT-RELATED ACTIONS.—Under the  
20      circumstances described in paragraph (1) the Sec-  
21      retary may—

22              “(A) revoke any permit issued with respect  
23      to such vessel or person, with or without preju-  
24      dice to the issuance of subsequent permits;

1           “(B) suspend such permit for a period of  
2           time considered by the Secretary to be appro-  
3           priate;

4           “(C) deny such permit; or

5           “(D) impose additional conditions and re-  
6           strictions on any permit issued to or applied for  
7           by such vessel or person under this Act and,  
8           with respect to any foreign fishing vessel, on  
9           the approved application of the foreign nation  
10          involved and on any permit issued under that  
11          application.

12          “(3) FACTORS TO BE CONSIDERED.—In impos-  
13          ing a sanction under this subsection, the Secretary  
14          shall take into account—

15               “(A) the nature, circumstances, extent,  
16               and gravity of the prohibited acts for which the  
17               sanction is imposed; and

18               “(B) with respect to the violator, the de-  
19               gree of culpability, any history of prior offenses,  
20               and such other matters as justice may require.

21          “(4) TRANSFERS OF OWNERSHIP.—Transfer of  
22          ownership of a vessel, a permit, or any interest in  
23          a permit, by sale or otherwise, shall not extinguish  
24          any permit sanction that is in effect or is pending  
25          at the time of transfer of ownership. Before exe-

1       cutting the transfer of ownership of a vessel, permit,  
2       or interest in a permit, by sale or otherwise, the  
3       owner shall disclose in writing to the prospective  
4       transferee the existence of any permit sanction that  
5       will be in effect or pending with respect to the ves-  
6       sel, permit, or interest at the time of the transfer.

7           “(5) REINSTATEMENT.—In the case of any per-  
8       mit that is suspended under this subsection for non-  
9       payment of a civil penalty, criminal fine, or any  
10      amount in settlement of a civil forfeiture, the Sec-  
11      retary shall reinstate the permit upon payment of  
12      the penalty, fine, or settlement amount and interest  
13      thereon at the prevailing rate.

14          “(6) HEARING.—No sanction shall be imposed  
15      under this subsection unless there has been prior op-  
16      portunity for a hearing on the facts underlying the  
17      violation for which the sanction is imposed either in  
18      conjunction with a civil penalty proceeding under  
19      this section or otherwise.

20          “(7) PERMIT DEFINED.—In this subsection, the  
21      term ‘permit’ means any license, certificate, ap-  
22      proval, registration, charter, membership, exemption,  
23      or other form of permission issued by the Commis-  
24      sion or the Secretary, and includes any quota share

1 or other transferable quota issued by the Sec-  
2 retary.”.

3 (c) CRIMINAL PENALTIES.—Section 9(b) of the  
4 Northern Pacific Halibut Act of 1982 (16 U.S.C. 773g(b))  
5 is amended—

6 (1) by striking “\$50,000” and inserting  
7 “\$200,000”; and

8 (2) by striking “\$100,000,” and inserting  
9 “\$400,000,”.

10 **SEC. 302. REAUTHORIZATION OF OTHER FISHERIES ACTS.**

11 (a) ATLANTIC STRIPED BASS CONSERVATION ACT.—  
12 Section 7(a) of the Atlantic Striped Bass Conservation Act  
13 (16 U.S.C. 5156(a)) is amended to read as follows:

14 “(a) AUTHORIZATION.—For each of fiscal years  
15 2006, 2007, 2008, 2009, and 2010, there are authorized  
16 to be appropriated to carry out this Act—

17 “(1) \$1,000,000 to the Secretary of Commerce;  
18 and

19 “(2) \$250,000 to the Secretary of the Inte-  
20 rior.”.

21 (b) YUKON RIVER SALMON ACT OF 2000.—Section  
22 208 of the Yukon River Salmon Act of 2000 (16 U.S.C.  
23 5727) is amended by striking “\$4,000,000 for each of fis-  
24 cal years 2004 through 2008,” and inserting “\$4,000,000  
25 for each of fiscal years 2006 through 2010,”.

1 (c) SHARK FINNING PROHIBITION ACT.—Section 10  
2 of the Shark Finning Prohibition Act (16 U.S.C. 1822  
3 note) is amended by striking “fiscal years 2001 through  
4 2005” and inserting “fiscal years 2006 through 2010”.

5 (d) PACIFIC SALMON TREATY ACT.—

6 (1) TRANSFER OF SECTION TO ACT.—The text  
7 of section 623 of title VI of H.R. 3421 (113 Stat.  
8 1501A-56), as introduced on November 17, 1999,  
9 and enacted into law by section 1000(a)(1) of the  
10 Act of November 29, 1999 (Public Law 106–113)—

11 (A) is transferred to the Pacific Salmon  
12 Treaty Act (16 U.S.C. 3631 et seq.) and in-  
13 serted after section 15; and

14 (B) amended—

15 (i) by striking “SEC. 623.”; and

16 (ii) inserting before “(a) NORTHERN  
17 FUND AND SOUTHERN FUND.—” the fol-  
18 lowing:

19 **“SEC. 16. NORTHERN AND SOUTHERN FUNDS; TREATY IM-**  
20 **PLEMENTATION; ADDITIONAL AUTHORIZA-**  
21 **TION OF APPROPRIATIONS.”.**

22 (2) REAUTHORIZATION.—Section 16(d)(2)(A)  
23 of the Pacific Salmon Treaty Act, as transferred by  
24 subsection (a), is amended—

1 (1) by inserting “sustainable salmon fisheries,”  
2 after “enhancement,”; and

3 (2) by inserting “2006, 2007, 2008, and 2009,”  
4 after “2005,”.

5 (e) STATE AUTHORITY FOR DUNGENESS CRAB FISH-  
6 ERY MANAGEMENT.—Section 203 of Public Law 105–384  
7 (16 U.S.C. 1856 note) is amended—

8 (1) by striking “September 30, 2006.” in sub-  
9 section (i) and inserting “September 30, 2016.”;

10 (2) by striking “health” in subsection (j) and  
11 inserting “status”; and

12 (3) by striking “California.” in subsection (j)  
13 and inserting “California, including—

14 “(1) stock status and trends throughout its  
15 range;

16 “(2) a description of applicable research and  
17 scientific review processes used to determine stock  
18 status and trends; and

19 “(3) measures implemented or planned that are  
20 designed to prevent or end overfishing in the fish-  
21 ery.”.

22 (f) PACIFIC FISHERY MANAGEMENT COUNCIL.—

23 (1) IN GENERAL.—The Pacific Fishery Man-  
24 agement Council shall develop a proposal for the ap-  
25 propriate rationalization program for the Pacific

1 trawl groundfish and whiting fisheries, including the  
2 shore-based sector of the Pacific whiting fishery  
3 under its jurisdiction. The proposal may include only  
4 the Pacific whiting fishery, including the shore-based  
5 sector, if the Pacific Council determines that a ra-  
6 tionalization plan for the fishery as a whole cannot  
7 be achieved before the report is required to be sub-  
8 mitted under paragraph (3).

9 (2) REQUIRED ANALYSIS.—In developing the  
10 proposal to rationalize the fishery, the Pacific Coun-  
11 cil shall fully analyze alternative program designs,  
12 including the allocation of limited access privileges  
13 to harvest fish to fishermen and processors working  
14 together in regional fishery associations or some  
15 other cooperative manner to harvest and process the  
16 fish, as well as the effects of these program designs  
17 and allocations on competition and conservation.  
18 The analysis shall include an assessment of the im-  
19 pact of the proposal on conservation and the eco-  
20 nomics of communities, fishermen, and processors  
21 participating in the trawl groundfish fisheries, in-  
22 cluding the shore-based sector of the Pacific whiting  
23 fishery.

24 (3) REPORT.—The Pacific Council shall submit  
25 the proposal and related analysis to the Senate Com-

1        mittee on Commerce, Science, and Transportation  
2        and the House of Representatives Committee on Re-  
3        sources no later than 24 months after the date of  
4        enactment of this Act.

5        **TITLE IV—INTERNATIONAL**

6        **SEC. 401. INTERNATIONAL MONITORING AND COMPLIANCE.**

7        Title II (16 U.S.C. 1821 et seq.) is amended by add-  
8        ing at the end the following:

9        **“SEC. 207. INTERNATIONAL MONITORING AND COMPLI-**  
10        **ANCE.**

11        “(a) IN GENERAL.—The Secretary may undertake  
12        activities to promote improved monitoring and compliance  
13        for high seas fisheries, or fisheries governed by inter-  
14        national fishery management agreements, and to imple-  
15        ment the requirements of this title.

16        “(b) SPECIFIC AUTHORITIES.—In carrying out sub-  
17        section (a), the Secretary may—

18                “(1) share information on harvesting and proc-  
19        essing capacity and illegal, unreported and unregu-  
20        lated fishing on the high seas, in areas covered by  
21        international fishery management agreements, and  
22        by vessels of other nations within the United States  
23        exclusive economic zone, with relevant law enforce-  
24        ment organizations of foreign nations and relevant  
25        international organizations;



1           “(2) further develop real time information shar-  
2           ing capabilities, particularly on harvesting and proc-  
3           essing capacity and illegal, unreported and unregu-  
4           lated fishing;

5           “(3) participate in global and regional efforts to  
6           build an international network for monitoring, con-  
7           trol, and surveillance of high seas fishing and fishing  
8           under regional or global agreements;

9           “(4) support efforts to create an international  
10          registry or database of fishing vessels, including by  
11          building on or enhancing registries developed by  
12          international fishery management organizations;

13          “(5) enhance enforcement capabilities through  
14          the application of commercial or governmental re-  
15          mote sensing technology to locate or identify vessels  
16          engaged in illegal, unreported, or unregulated fish-  
17          ing on the high seas, including encroachments into  
18          the exclusive economic zone by fishing vessels of  
19          other nations;

20          “(6) provide technical or other assistance to de-  
21          veloping countries to improve their monitoring, con-  
22          trol, and surveillance capabilities; and

23          “(7) support coordinated international efforts  
24          to ensure that all large-scale fishing vessels oper-  
25          ating on the high seas are required by their flag

1 State to be fitted with vessel monitoring systems no  
2 later than December 31, 2008, or earlier if so de-  
3 cided by the relevant flag State or any relevant  
4 international fishery management organization.”.

5 **SEC. 402. FINDING WITH RESPECT TO ILLEGAL, UNRE-**  
6 **PORTED, AND UNREGULATED FISHING.**

7 Section 2(a) (16 U.S.C. 1801(a)), as amended by sec-  
8 tion 3 of this Act, is further amended by adding at the  
9 end the following:

10 “(12) International cooperation is necessary to  
11 address illegal, unreported, and unregulated fishing  
12 and other fishing practices which may harm the sus-  
13 tainability of living marine resources and disadvan-  
14 tage the United States fishing industry.”.

15 **SEC. 403. ACTION TO END ILLEGAL, UNREPORTED, OR UN-**  
16 **REGULATED FISHING AND REDUCE BYCATCH**  
17 **OF PROTECTED MARINE SPECIES.**

18 (a) IN GENERAL.—Title VI of the High Seas Driftnet  
19 Fishing Moratorium Protection Act (16 U.S.C. 1826d et  
20 seq.), is amended by adding at the end the following:

21 **“SEC. 607. BIENNIAL REPORT ON INTERNATIONAL COMPLI-**  
22 **ANCE.**

23 “The Secretary, in consultation with the Secretary of  
24 State, shall provide to Congress, by not later than 2 years  
25 after the date of enactment of the Magnuson-Stevens

1 Fishery Conservation and Management Reauthorization  
2 Act of 2006, and every 2 years thereafter, a report that  
3 includes—

4           “(1) the state of knowledge on the status of  
5 international living marine resources shared by the  
6 United States or subject to treaties or agreements to  
7 which the United States is a party, including a list  
8 of all such fish stocks classified as overfished, over-  
9 exploited, depleted, endangered, or threatened with  
10 extinction by any international or other authority  
11 charged with management or conservation of living  
12 marine resources;

13           “(2) a list of nations whose vessels have been  
14 identified under sections 609(a) or 610(a), including  
15 the specific offending activities and any subsequent  
16 actions taken pursuant to section 609 or 610;

17           “(3) a description of efforts taken by nations on  
18 those lists to comply take appropriate corrective ac-  
19 tion consistent with sections 609 and 610, and an  
20 evaluation of the progress of those efforts, including  
21 steps taken by the United States to implement those  
22 sections and to improve international compliance;

23           “(4) progress at the international level, con-  
24 sistent with section 608, to strengthen the efforts of

1 international fishery management organizations to  
2 end illegal, unreported, or unregulated fishing; and  
3 “(5) steps taken by the Secretary at the inter-  
4 national level to adopt international measures com-  
5 parable to those of the United States to reduce im-  
6 pacts of fishing and other practices on protected liv-  
7 ing marine resources, if no international agreement  
8 to achieve such goal exists, or if the relevant inter-  
9 national fishery or conservation organization has  
10 failed to implement effective measures to end or re-  
11 duce the adverse impacts of fishing practices on  
12 such species.

13 **“SEC. 608. ACTION TO STRENGTHEN INTERNATIONAL FISH-**  
14 **ERY MANAGEMENT ORGANIZATIONS.**

15 “The Secretary, in consultation with the Secretary of  
16 State, and in cooperation with relevant fishery manage-  
17 ment councils and any relevant advisory committees, shall  
18 take actions to improve the effectiveness of international  
19 fishery management organizations in conserving and man-  
20 aging fish stocks under their jurisdiction. These actions  
21 shall include—

22 “(1) urging international fishery management  
23 organizations to which the United States is a mem-  
24 ber—

1           “(A) to incorporate multilateral market-re-  
2           lated measures against member or nonmember  
3           governments whose vessels engage in illegal, un-  
4           reported, or unregulated fishing;

5           “(B) to seek adoption of lists that identify  
6           fishing vessels and vessel owners engaged in il-  
7           legal, unreported, or unregulated fishing that  
8           can be shared among all members and other  
9           international fishery management organizations;

10          “(C) to seek international adoption of a  
11          centralized vessel monitoring system in order to  
12          monitor and document capacity in fleets of all  
13          nations involved in fishing in areas under the  
14          an international fishery management organiza-  
15          tion’s jurisdiction;

16          “(D) to increase use of observers and tech-  
17          nologies needed to monitor compliance with con-  
18          servation and management measures estab-  
19          lished by the organization, including vessel  
20          monitoring systems and automatic identification  
21          systems; and

22          “(E) to seek adoption of stronger port  
23          state controls in all nations, particularly those  
24          nations in whose ports vessels engaged in ille-

1 gal, unreported, or unregulated fishing land or  
2 transship fish;

3 “(2) urging international fishery management  
4 organizations to which the United States is a mem-  
5 ber, as well as all members of those organizations,  
6 to adopt and expand the use of market-related meas-  
7 ures to combat illegal, unreported, or unregulated  
8 fishing, including—

9 “(A) import prohibitions, landing restric-  
10 tions, or other market-based measures needed  
11 to enforce compliance with international fishery  
12 management organization measures, such as  
13 quotas and catch limits;

14 “(B) import restrictions or other market-  
15 based measures to prevent the trade or impor-  
16 tation of fish caught by vessels identified multi-  
17 laterally as engaging in illegal, unreported, or  
18 unregulated fishing; and

19 “(C) catch documentation and certification  
20 schemes to improve tracking and identification  
21 of catch of vessels engaged in illegal, unre-  
22 ported, or unregulated fishing, including ad-  
23 vance transmission of catch documents to ports  
24 of entry; and

1           “(3) urging other nations at bilateral, regional,  
2           and international levels, including the Convention on  
3           International Trade in Endangered Species of  
4           Fauna and Flora and the World Trade Organization  
5           to take all steps necessary, consistent with inter-  
6           national law, to adopt measures and policies that  
7           will prevent fish or other living marine resources  
8           harvested by vessels engaged in illegal, unreported,  
9           or unregulated fishing from being traded or im-  
10          ported into their nation or territories.

11   **“SEC. 609. ILLEGAL, UNREPORTED, OR UNREGULATED**  
12                           **FISHING.**

13           “(a) IDENTIFICATION.—The Secretary shall identify,  
14           and list in the report under section 607, a nation if fishing  
15           vessels of that nation are engaged, or have been engaged  
16           at any point during the preceding two years in illegal, un-  
17           reported, or unregulated fishing; and—

18           “(1) the relevant international fishery manage-  
19           ment organization has failed to implement effective  
20           measures to end the illegal unreported, or unregu-  
21           lated fishing activity by vessels of that nation or the  
22           nation is not a party to, or does not maintain co-  
23           operating status with, such organization; or

1           “(2) where no international fishery manage-  
2           ment organization exists with a mandate to regulate  
3           the fishing activity in question.

4           “(b) NOTIFICATION.—An identification under sub-  
5           section (a) or section 610(a) is deemed to be an identifica-  
6           tion under section 101(b)(1)(A) of the High Seas Driftnet  
7           Fisheries Enforcement Act (16 U.S.C. 1826a(b)(1)(A)),  
8           and the Secretary shall notify the President and that na-  
9           tion of such identification.

10          “(c) CONSULTATION.—No later than 60 days after  
11          submitting a report to Congress under section 607, the  
12          Secretary, acting through the Secretary of State, shall—

13               “(1) notify nations listed in the report of the  
14               requirements of this section;

15               “(2) initiate consultations for the purpose of  
16               encouraging such nations to take the appropriate  
17               corrective action with respect to the offending activi-  
18               ties of their fishing vessels identified in the report;  
19               and

20               “(3) notify any relevant international fishery  
21               management organization of the actions taken by  
22               the United States under this section.

23          “(d) IUU CERTIFICATION PROCEDURE.—

24               “(1) CERTIFICATION.—The Secretary shall es-  
25               tablish a procedure, consistent with the provisions of



1 subchapter II of chapter 5 of title 5, United States  
2 Code, and including notice and an opportunity for  
3 comment by the governments of any nation listed by  
4 the Secretary under subsection (a), for determining  
5 if that government has taken appropriate corrective  
6 action with respect to the offending activities of its  
7 fishing vessels identified in the report under section  
8 607. The Secretary shall determine, on the basis of  
9 the procedure, and certify to the Congress no later  
10 than 90 days after the date on which the Secretary  
11 promulgates a final rule containing the procedure,  
12 and biennially thereafter in the report under section  
13 607—

14 “(A) whether the government of each na-  
15 tion identified under subsection (b) has pro-  
16 vided documentary evidence that it has taken  
17 corrective action with respect to the offending  
18 activities of its fishing vessels identified in the  
19 report; or

20 “(B) whether the relevant international  
21 fishery management organization has imple-  
22 mented measures that are effective in ending  
23 the illegal, unreported, or unregulated fishing  
24 activity by vessels of that nation.

1           “(2) ALTERNATIVE PROCEDURE.—The Sec-  
2       retary may establish a procedure for certification, on  
3       a shipment-by-shipment, shipper-by-shipper, or other  
4       basis of fish or fish products from a vessel of a har-  
5       vesting nation not certified under paragraph (1) if  
6       the Secretary determines that—

7           “(A) the vessel has not engaged in illegal,  
8       unreported, or unregulated fishing under an  
9       international fishery management agreement to  
10      which the United States is a party; or

11          “(B) the vessel is not identified by an  
12      international fishery management organization  
13      as participating in illegal, unreported, or un-  
14      regulated fishing activities.

15          “(3) EFFECT OF CERTIFICATION.—The provi-  
16      sions of section 101(a) and section 101(b)(3) and  
17      (4) of this Act (16 U.S.C. 1826a(a), (b)(3), and  
18      (b)(4)) (except to the extent that such provisions  
19      apply to sport fishing equipment or fish or products  
20      thereof not managed under the relevant inter-  
21      national fishery agreement (or, where there is no  
22      such agreement, not caught by the vessels engaged  
23      in illegal, unreported, or unregulated fishing)) shall  
24      apply to any nation identified under subsection (a)  
25      that has not been certified by the Secretary under

1       this subsection, or for which the Secretary has  
2       issued a negative certification under this subsection,  
3       but shall not apply to any nation identified under  
4       subsection (a) for which the Secretary has issued a  
5       positive certification under this subsection.

6       “(e) ILLEGAL, UNREPORTED, OR UNREGULATED  
7 FISHING DEFINED.—

8               “(1) IN GENERAL.—In this Act the term ‘ille-  
9       gal, unreported, or unregulated fishing’ has the  
10       meaning established under paragraph (2).

11              “(2) SECRETARY TO DEFINE TERM WITHIN  
12       LEGISLATIVE GUIDELINES.—Within 3 months after  
13       the date of enactment of the Magnuson-Stevens  
14       Fishery Conservation and Management Reauthoriza-  
15       tion Act of 2006, the Secretary shall publish a defi-  
16       nition of the term ‘illegal, unreported, or unregu-  
17       lated fishing’ for purposes of this Act.

18              “(3) GUIDELINES.—The Secretary shall include  
19       in the definition, at a minimum—

20               “(A) fishing activities that violate con-  
21       servation and management measures required  
22       under an international fishery management  
23       agreement to which the United States is a  
24       party, including catch limits or quotas, capacity

1 restrictions, and bycatch reduction require-  
2 ments;

3 “(B) overfishing of fish stocks shared by  
4 the United States, for which there are no appli-  
5 cable international conservation or management  
6 measures or in areas with no applicable inter-  
7 national fishery management organization or  
8 agreement, that has adverse impacts on such  
9 stocks; and

10 “(C) fishing activity, including bottom  
11 trawling, that has adverse impacts on  
12 seamounts, hydrothermal vents, and cold water  
13 corals located beyond national jurisdiction, for  
14 which there are no applicable conservation or  
15 management measures or in areas with no ap-  
16 plicable international fishery management orga-  
17 nization or agreement.

18 “(f) AUTHORIZATION OF APPROPRIATIONS.—There  
19 are authorized to be appropriated to the Secretary for fis-  
20 cal years 2006 through 2012 such sums as are necessary  
21 to carry out this section.

22 **“SEC. 610. EQUIVALENT CONSERVATION MEASURES.**

23 “(a) IDENTIFICATION.—The Secretary shall identify,  
24 and list in the report under section 607, a nation if—

1           “(1) fishing vessels of that nation are engaged,  
2           or have been engaged during the preceding calendar  
3           year in fishing activities or practices;

4                   “(A) beyond the exclusive economic zone of  
5           any nation that result in bycatch of a protected  
6           living marine resource; or

7                   “(B) beyond the exclusive economic zone of  
8           the United States that result in bycatch of a  
9           protected living marine resource shared by the  
10          United States;

11                   “(2) the relevant international organization  
12          for the conservation and protection of such re-  
13          sources or the relevant international or regional  
14          fishery organization has failed to implement ef-  
15          fective measures to end or reduce such bycatch,  
16          or the nation is not a party to, or does not  
17          maintain cooperating status with, such organi-  
18          zation; and

19                   “(3) the nation has not adopted a regu-  
20          latory program governing such fishing practices  
21          designed to end or reduce such bycatch that is  
22          comparable to that of the United States, taking  
23          into account different conditions.

24          “(b) CONSULTATION AND NEGOTIATION.—The Sec-  
25          retary, acting through the Secretary of State, shall—

1           “(1) notify, as soon as possible, other nations  
2       whose vessels engage in fishing activities or practices  
3       described in subsection (a), about the provisions of  
4       this section and this Act;

5           “(2) initiate discussions as soon as possible  
6       with all foreign governments which are engaged in,  
7       or which have persons or companies engaged in,  
8       fishing activities or practices described in subsection  
9       (a), for the purpose of entering into bilateral and  
10      multilateral treaties with such countries to protect  
11      such species;

12          “(3) seek agreements calling for international  
13      restrictions on fishing activities or practices de-  
14      scribed in subsection (a) through the United Na-  
15      tions, the Food and Agriculture Organization’s Com-  
16      mittee on Fisheries, and appropriate international  
17      fishery management bodies; and

18          “(4) initiate the amendment of any existing  
19      international treaty for the protection and conserva-  
20      tion of such species to which the United States is a  
21      party in order to make such treaty consistent with  
22      the purposes and policies of this section.

23      “(c) CONSERVATION CERTIFICATION PROCEDURE.—

24          “(1) CERTIFICATION.—The Secretary shall de-  
25      termine, on the basis of a procedure consistent with

1 the provisions of subchapter II of chapter 5 of title  
2 5, United States Code, and including notice and an  
3 opportunity for comment by the governments of any  
4 nation identified by the Secretary under subsection  
5 (a). The Secretary shall certify to the Congress by  
6 January 31, 2007, and biennially thereafter whether  
7 the government of each harvesting nation—

8 “(A) has provided documentary evidence of  
9 the adoption of a regulatory program governing  
10 the conservation of the protected living marine  
11 resource that is comparable to that of the  
12 United States, taking into account different  
13 conditions, and which, in the case of pelagic  
14 longline fishing, includes mandatory use of cir-  
15 cle hooks, careful handling and release equip-  
16 ment, and training and observer programs; and

17 “(B) has established a management plan  
18 containing requirements that will assist in gath-  
19 ering species-specific data to support inter-  
20 national stock assessments and conservation en-  
21 forcement efforts for protected living marine re-  
22 sources.

23 “(2) ALTERNATIVE PROCEDURE.—The Sec-  
24 retary shall establish a procedure for certification,  
25 on a shipment-by-shipment, shipper-by-shipper, or

1 other basis of fish or fish products from a vessel of  
2 a harvesting nation not certified under paragraph  
3 (1) if the Secretary determines that such imports  
4 were harvested by practices that do not result in by-  
5 catch of a protected marine species, or were har-  
6 vested by practices that—

7 “(A) are comparable to those of the United  
8 States, taking into account different conditions,  
9 and which, in the case of pelagic longline fish-  
10 ing, includes mandatory use of circle hooks,  
11 careful handling and release equipment, and  
12 training and observer programs; and

13 “(B) include the gathering of species spe-  
14 cific data that can be used to support inter-  
15 national and regional stock assessments and  
16 conservation efforts for protected living marine  
17 resources.

18 “(3) EFFECT OF CERTIFICATION.—The provi-  
19 sions of section 101(a) and section 101(b)(3) and  
20 (4) of this Act (16 U.S.C. 1826a(a), (b)(3), and  
21 (b)(4)) (except to the extent that such provisions  
22 apply to sport fishing equipment or fish or fish prod-  
23 ucts not caught by the vessels engaged in illegal, un-  
24 reported, or unregulated fishing) shall apply to any  
25 nation identified under subsection (a) that has not



1       been certified by the Secretary under this sub-  
2       section, or for which the Secretary has issued a neg-  
3       ative certification under this subsection, but shall  
4       not apply to any nation identified under subsection  
5       (a) for which the Secretary has issued a positive cer-  
6       tification under this subsection.

7       “(d) INTERNATIONAL COOPERATION AND ASSIST-  
8       ANCE.—To the greatest extent possible consistent with ex-  
9       isting authority and the availability of funds, the Secretary  
10      shall—

11           “(1) provide appropriate assistance to nations  
12           identified by the Secretary under subsection (a) and  
13           international organizations of which those nations  
14           are members to assist those nations in qualifying for  
15           certification under subsection (c);

16           “(2) undertake, where appropriate, cooperative  
17           research activities on species statistics and improved  
18           harvesting techniques, with those nations or organi-  
19           zations;

20           “(3) encourage and facilitate the transfer of ap-  
21           propriate technology to those nations or organiza-  
22           tions to assist those nations in qualifying for certifi-  
23           cation under subsection (c); and

1           “(4) provide assistance to those nations or or-  
2           ganizations in designing and implementing appro-  
3           priate fish harvesting plans.

4           “(e) PROTECTED LIVING MARINE RESOURCE DE-  
5           FINED.—In this section the term ‘protected living marine  
6           resource’—

7           “(1) means non-target fish, sea turtles, or ma-  
8           rine mammals that are protected under United  
9           States law or international agreement, including the  
10          Marine Mammal Protection Act, the Endangered  
11          Species Act, the Shark Finning Prohibition Act, and  
12          the Convention on International Trade in Endan-  
13          gered Species of Wild Flora and Fauna; but

14          “(2) does not include species, except sharks,  
15          managed under the Magnuson-Stevens Fishery Con-  
16          servation and Management Act, the Atlantic Tunas  
17          Convention Act, or any international fishery man-  
18          agement agreement.

19          “(f) AUTHORIZATION OF APPROPRIATIONS.—There  
20          are authorized to be appropriated to the Secretary for fis-  
21          cal years 2006 through 2012 such sums as are necessary  
22          to carry out this section.“.

23          (b) CONFORMING AMENDMENTS.—

24                 (1) DENIAL OF PORT PRIVILEGES.—Section  
25          101(b) of the High Seas Driftnet Fisheries Enforce-

1        ment Act (16 U.S.C. 1826a(b)) is amended by in-  
2        serting “or illegal, unreported, or unregulated  
3        fishing“ after “fishing“ in paragraph (1)(A)(i),  
4        paragraph (1)(B), paragraph (2), and paragraph  
5        (4)(A)(i).

6            (2) DURATION OF DENIAL.—Section 102 of the  
7        High Seas Driftnet Fisheries Enforcement Act (16  
8        U.S.C. 1826b) is amended by inserting “or illegal,  
9        unreported , or unregulated fishing“ after “fishing“.

10   **SEC. 404. MONITORING OF PACIFIC INSULAR AREA FISH-**  
11   **ERIES.**

12        (a) WAIVER AUTHORITY.—Section 201(h)(2)(B) (16  
13        U.S.C. 1821(h)(2)(B)) is amended by striking “that is at  
14        least equal in effectiveness to the program established by  
15        the Secretary;” and inserting “or other monitoring pro-  
16        gram that the Secretary, in consultation with the Western  
17        Pacific Management Council, determines is adequate to  
18        monitor harvest, bycatch, and compliance with the laws  
19        of the United States by vessels fishing under the agree-  
20        ment;”.

21        (b) MARINE CONSERVATION PLANS.—Section  
22        204(e)(4)(A)(i) (16 U.S.C. 1824(e)(4)(A)(i)) is amended  
23        to read as follows:

24            “(i) Pacific Insular Area observer programs, or  
25        other monitoring programs, that the Secretary deter-

1        mines are adequate to monitor the harvest, bycatch,  
2        and compliance with the laws of the United States  
3        by foreign fishing vessels that fish under Pacific In-  
4        sular Area fishing agreements;”.

5    **SEC. 405. REAUTHORIZATION OF ATLANTIC TUNAS CON-**  
6                                    **VENTION ACT.**

7        (a) IN GENERAL.—Section 10 of the Atlantic Tunas  
8        Convention Act of 1975 (16 U.S.C. 971h) is amended to  
9        read as follows:

10   **“SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

11        “(a) IN GENERAL.—There are authorized to be ap-  
12        propriated to the Secretary to carry out this Act, including  
13        use for payment of the United States share of the joint  
14        expenses of the Commission as provided in Article X of  
15        the Convention—

16                    “(1) \$5,495,000 for fiscal year 2006;

17                    “(2) \$5,770,000 for each of fiscal years 2007  
18        and 2008;

19                    “(3) \$6,058,000 for each of fiscal years 2009  
20        and 2010; and

21                    “(4) \$6,361,000 for each of fiscal years 2011  
22        and 2012.

23        “(b) ALLOCATION.—Of the amounts made available  
24        under subsection (a) for each fiscal year—

1           “(1) \$160,000 are authorized for the advisory  
2       committee established under section 4 of this Act  
3       and the species working groups established under  
4       section 4A of this Act; and

5           “(2) \$7,500,000 are authorized for research ac-  
6       tivities under this Act and section 3 of Public Law  
7       96–339 (16 U.S.C. 971i), of which \$3,000,000 shall  
8       be for the cooperative research program under sec-  
9       tion 3(b)(2)(H) of that section (16 U.S.C.  
10      971i(b)(2)(H)).”.

11       (b) DISQUALIFICATION FROM APPOINTMENT TO  
12      INTERNATIONAL COMMISSION FOR THE CONSERVATION  
13      OF ATLANTIC TUNAS.—Section 3(a) of the Atlantic Tunas  
14      Convention Act of 1975 (16 U.S.C. 971a(a)) is amended  
15      by adding at the end the following:

16           “(4) An individual who has directly represented,  
17       aided, or advised a foreign entity in any marine re-  
18       sources negotiation, or marine resource dispute, with  
19       the United States may not be appointed or serve as  
20       a Commissioner.”.

21       (c) ATLANTIC BILLFISH COOPERATIVE RESEARCH  
22      PROGRAM.—Section 3(b)(2) of Public Law 96–339 (16  
23      U.S.C. 971i(b)(2)) is amended—

24           (1) by striking “and” after the semicolon in  
25       subparagraph (G);

1 (2) by redesignating subparagraph (H) as sub-  
2 paragraph (I); and

3 (3) by inserting after subparagraph (G) the fol-  
4 lowing:

5 “(H) include a cooperative research pro-  
6 gram on Atlantic billfish based on the South-  
7 east Fisheries Science Center Atlantic Billfish  
8 Research Plan of 2002; and”.

9 **SEC. 406. INTERNATIONAL OVERFISHING AND DOMESTIC**  
10 **EQUITY.**

11 (a) INTERNATIONAL OVERFISHING.—Section 304  
12 (16 U.S.C. 1854) is amended by adding at the end thereof  
13 the following:

14 “(i) INTERNATIONAL OVERFISHING.—The provisions  
15 of this subsection shall apply in lieu of subsection (e) to  
16 a fishery that the Secretary determines is overfished or  
17 approaching a condition of being overfished due to exces-  
18 sive international fishing pressure, and for which there are  
19 no management measures to end overfishing under an  
20 international agreement to which the United States is a  
21 party. For such fisheries—

22 “(1) the Secretary, in cooperation with the Sec-  
23 retary of State, immediately take appropriate action  
24 at the international level to end the overfishing; and

1           “(2) within 1 year after the Secretary’s deter-  
2           mination, the appropriate Council, or Secretary, for  
3           fisheries under section 302(a)(3) shall—

4                   “(A) develop recommendations for domes-  
5           tic regulations to address the relative impact of  
6           fishing vessels of the United States on the stock  
7           and, if developed by a Council, the Council shall  
8           submit such recommendations to the Secretary;  
9           and

10                   “(B) develop and submit recommendations  
11           to the Secretary of State, and to the Congress,  
12           for international actions that will end over-  
13           fishing in the fishery and rebuild the affected  
14           stocks, taking into account the relative impact  
15           of vessels of other nations and vessels of the  
16           United States on the relevant stock.”.

17           (b) HIGHLY MIGRATORY SPECIES TAGGING RE-  
18   SEARCH.—Section 304(g)(2) (16 U.S.C. 1854(g)(2)) is  
19   amended by striking “(16 U.S.C. 971d)” and inserting  
20   “(16 U.S.C. 971d), or highly migratory species harvested  
21   in a commercial fishery managed by a Council under this  
22   Act or the Western and Central Pacific Fisheries Conven-  
23   tion Implementation Act,”.

1 **SEC. 407. U.S. CATCH HISTORY.**

2 In establishing catch allocations under international  
3 fisheries agreements, the Secretary, in consultation with  
4 the Secretary of the Department in which the Coast Guard  
5 is operating, and the Secretary of State, shall ensure that  
6 all catch history in a fishery associated with a vessel of  
7 the United States remains with the United States in that  
8 fishery, and is not transferred or credited to any other  
9 nation or vessel of such nation, including when a vessel  
10 of the United States is sold or transferred to a citizen  
11 of another nation or to an entity controlled by citizens of  
12 another nation.

13 **SEC. 408. SECRETARIAL REPRESENTATIVE FOR INTER-**  
14 **NATIONAL FISHERIES.**

15 (a) IN GENERAL.—The Secretary, in consultation  
16 with the Under Secretary of Commerce for Oceans and  
17 Atmosphere, shall designate a Senate-confirmed, senior of-  
18 ficial within the National Oceanic and Atmospheric Ad-  
19 ministration to perform the duties of the Secretary with  
20 respect to international agreements involving fisheries and  
21 other living marine resources, including policy develop-  
22 ment and representation as a U.S. Commissioner, under  
23 any such international agreements.

24 (b) ADVICE.—The designated official shall, in con-  
25 sultation with the Deputy Assistant Secretary for Inter-  
26 national Affairs and the Administrator of the National



1 Marine Fisheries Service, advise the Secretary, Undersec-  
2 retary of Commerce for Oceans and Atmosphere, and  
3 other senior officials of the Department of Commerce and  
4 the National Oceanic and Atmospheric Administration on  
5 development of policy on international fisheries conserva-  
6 tion and management matters.

7 (c) CONSULTATION.—The designated official shall  
8 consult with the Senate Committee on Commerce, Science,  
9 and Transportation and the House Committee on Re-  
10 sources on matters pertaining to any regional or inter-  
11 national negotiation concerning living marine resources,  
12 including shellfish, including before initialing any agree-  
13 ment concerning living marine resources or attending any  
14 official meeting at which management measures will be  
15 discussed, and shall otherwise keep the committees in-  
16 formed throughout the negotiation process.

17 (d) DELEGATION.—The designated official may dele-  
18 gate and authorize successive re-delegation of such func-  
19 tions, powers, and duties to such officers and employees  
20 of the National Oceanic and Atmospheric Administration  
21 as deemed necessary to discharge the responsibility of the  
22 Office.

23 (e) DISQUALIFICATION FROM DESIGNATION.—The  
24 Secretary may not designate an individual under sub-  
25 section (a) who has directly represented, aided, or advised

1 a foreign entity (as defined in section 207(f)(3) of title  
2 18, United States Code) in any marine resource negotia-  
3 tion, or marine resource dispute, with the United States.

4 **TITLE V—IMPLEMENTATION OF**  
5 **WESTERN AND CENTRAL PA-**  
6 **CIFIC FISHERIES CONVEN-**  
7 **TION**

8 **SEC. 501. SHORT TITLE.**

9 This title may be cited as the “Western and Central  
10 Pacific Fisheries Convention Implementation Act”.

11 **SEC. 502. DEFINITIONS.**

12 In this title:

13 (1) 1982 CONVENTION.—The term “1982 Con-  
14 vention” means the United Nations Convention on  
15 the Law of the Sea of 10 December 1982.

16 (2) AGREEMENT.—The term “Agreement”  
17 means the Agreement for the Implementation of the  
18 Provisions of the United Nations Convention on the  
19 Law of the Sea of 10 December 1982 relating to the  
20 Conservation and Management of Straddling Fish  
21 Stocks and Highly Migratory Fish Stocks.

22 (3) COMMISSION.—The term “Commission”  
23 means the Commission for the Conservation and  
24 Management of Highly Migratory Fish Stocks in the

1 Western and Central Pacific Ocean established in  
2 accordance with this Convention.

3 (4) CONVENTION AREA.—The term “convention  
4 area” means all waters of the Pacific Ocean bounded  
5 to the south and to the east by the following line:  
6 From the south coast of Australia due south along  
7 the 141th meridian of east longitude to its intersec-  
8 tion with the 55th parallel of south latitude; thence  
9 due east along the 55th parallel of south latitude to  
10 its intersection with the 150th meridian of east lon-  
11 gitude; thence due south along the 150th meridian  
12 of east longitude to its intersection with the 60th  
13 parallel of south latitude; thence due east along the  
14 60th parallel of south latitude to its intersection  
15 with the 130th meridian of west longitude; thence  
16 due north along the 130th meridian of west lon-  
17 gitude to its intersection with the 4th parallel of  
18 south latitude; thence due west along the 4th par-  
19 allel of south latitude to its intersection with the  
20 150th meridian of west longitude; thence due north  
21 along the 150th meridian of west longitude.

22 (5) EXCLUSIVE ECONOMIC ZONE.—The term  
23 “exclusive economic zone” means the zone estab-  
24 lished by Presidential Proclamation Numbered 5030  
25 of March 10, 1983.

1 (6) FISHING.—The term “fishing” means:

2 (A) searching for, catching, taking, or har-  
3 vesting fish.

4 (B) attempting to search for, catch, take,  
5 or harvest fish.

6 (C) engaging in any other activity which  
7 can reasonably be expected to result in the lo-  
8 cating, catching, taking, or harvesting of fish  
9 for any purpose.

10 (D) placing, searching for, or recovering  
11 fish aggregating devices or associated electronic  
12 equipment such as radio beacons.

13 (E) any operations at sea directly in sup-  
14 port of, or in preparation for, any activity de-  
15 scribed in subparagraphs (A) through (D), in-  
16 cluding transshipment.

17 (F) use of any other vessel, vehicle, air-  
18 craft, or hovercraft, for any activity described  
19 in subparagraphs (A) through (E) except for  
20 emergencies involving the health and safety of  
21 the crew or the safety of a vessel.

22 (7) FISHING VESSEL.—The term “fishing ves-  
23 sel” means any vessel used or intended for use for  
24 the purpose of fishing, including support ships, car-

1 rier vessels, and any other vessel directly involved in  
2 such fishing operations.

3 (8) HIGHLY MIGRATORY FISH STOCKS.—The  
4 term “highly migratory fish stocks” means all fish  
5 stocks of the species listed in Annex 1 of the 1982  
6 Convention occurring in the Convention Area, and  
7 such other species of fish as the Commission may  
8 determine.

9 (9) SECRETARY.—The term “Secretary” means  
10 the Secretary of Commerce.

11 (10) STATE.—The term “State” means each of  
12 the several States of the United States, the District  
13 of Columbia, the Commonwealth of the Northern  
14 Mariana Islands, American Samoa, Guam, and any  
15 other commonwealth, territory, or possession of the  
16 United States.

17 (11) TRANSHIPMENT.—The term “trans-  
18 shipment” means the unloading of all or any of the  
19 fish on board a fishing vessel to another fishing ves-  
20 sel either at sea or in port.

21 (12) WCPCF CONVENTION; WESTERN AND  
22 CENTRAL PACIFIC CONVENTION.—The terms  
23 “WCPCF Convention” and “Western and Central  
24 Pacific Convention” means the Convention on the  
25 Conservation and Management of the Highly Migra-

1 tory Fish Stocks in the Western and Central Pacific  
2 Ocean, with Annexes, which was adopted at Hono-  
3 lulu, Hawaii, on September 5, 2000, by the Multilat-  
4 eral High Level Conference on the Highly Migratory  
5 Fish Stocks in the Western and Central Pacific  
6 Ocean.

7 **SEC. 503. APPOINTMENT OF UNITED STATES COMMIS-**  
8 **SIONERS.**

9 (a) IN GENERAL.—The United States shall be rep-  
10 resented on the Commission by 5 United States Commis-  
11 sioners. The President shall appoint individuals to serve  
12 on the Commission at the pleasure of the President. In  
13 making the appointments, the President shall select Com-  
14 missioners from among individuals who are knowledgeable  
15 or experienced concerning highly migratory fish stocks in  
16 the Western and Central Pacific Ocean, one of whom shall  
17 be an officer or employee of the Department of Commerce,  
18 and one of whom shall be the chairman or a member of  
19 the Western Pacific Fishery Management Council. The  
20 Commissioners shall be entitled to adopt such rules of pro-  
21 cedures as they find necessary and to select a chairman  
22 from among members who are officers or employees of the  
23 United States Government.

24 (b) ALTERNATE COMMISSIONERS.—The Secretary of  
25 State, in consultation with the Secretary, may designate

1 from time to time and for periods of time deemed appro-  
2 priate Alternate United States Commissioners to the Com-  
3 mission. Any Alternate United States Commissioner may  
4 exercise at any meeting of the Commission, Council, any  
5 Panel, or the advisory committee established pursuant to  
6 subsection (d), all powers and duties of a United States  
7 Commissioner in the absence of any Commissioner ap-  
8 pointed pursuant to subsection (a) of this section for what-  
9 ever reason. The number of such Alternate United States  
10 Commissioners that may be designated for any such meet-  
11 ing shall be limited to the number of United States Com-  
12 missioners appointed pursuant to subsection (a) of this  
13 section who will not be present at such meeting.

14 (c) ADMINISTRATIVE MATTERS.—

15 (1) EMPLOYMENT STATUS.—Individuals serving  
16 as such Commissioners, other than officers or em-  
17 ployees of the United States Government, shall be  
18 considered to be Federal employees while performing  
19 such service, only for purposes of—

20 (A) injury compensation under chapter 81  
21 of title 5, United States Code;

22 (B) tort claims liability as provided under  
23 chapter 171 of title 28 United States Code;

1 (C) requirements concerning ethics, con-  
2 flicts of interest, and corruption as provided  
3 under title 18, United States Code; and

4 (D) any other criminal or civil statute or  
5 regulation governing the conduct of Federal em-  
6 ployees.

7 (2) COMPENSATION.—The United States Com-  
8 missioners or Alternate Commissioners, although of-  
9 ficers of the United States while so serving, shall re-  
10 ceive no compensation for their services as such  
11 Commissioners or Alternate Commissioners.

12 (3) TRAVEL EXPENSES.—

13 (A) The Secretary of State shall pay the  
14 necessary travel expenses of United States  
15 Commissioners and Alternate United States  
16 Commissioners in accordance with the Federal  
17 Travel Regulations and sections 5701, 5702,  
18 5704 through 5708, and 5731 of title 5, United  
19 States Code.

20 (B) The Secretary may reimburse the Sec-  
21 retary of State for amounts expended by the  
22 Secretary of State under this subsection.

23 (d) ADVISORY COMMITTEES.—

24 (1) ESTABLISHMENT OF PERMANENT ADVISORY  
25 COMMITTEE.—



1 (A) MEMBERSHIP.—There is established  
2 an advisory committee which shall be composed  
3 of—

4 (i) not less than 15 nor more than 20  
5 individuals appointed by the United States  
6 Commissioners who shall select such indi-  
7 viduals from the various groups concerned  
8 with the fisheries covered by the WCPFC  
9 Convention, providing, to the maximum ex-  
10 tent practicable, an equitable balance  
11 among such groups;

12 (ii) the chair of the Western Pacific  
13 Fishery Management Council's Advisory  
14 Committee or the chair's designee; and

15 (iii) officials of the fisheries manage-  
16 ment authorities of American Samoa,  
17 Guam, and the Northern Mariana Islands  
18 (or their designees).

19 (B) TERMS AND PRIVILEGES.—Each mem-  
20 ber of the advisory committee appointed under  
21 subparagraph (A) shall serve for a term of 2  
22 years and shall be eligible for reappointment.  
23 Members of the advisory committee may attend  
24 all public meetings of the Commission, Council,  
25 or any Panel to which they are invited by the

1 Commission, Council, or any Panel. The advi-  
2 sory committee shall be invited to attend all  
3 non-executive meetings of the United States  
4 Commissioners and at such meetings shall be  
5 given opportunity to examine and to be heard  
6 on all proposed programs of investigation, re-  
7 ports, recommendations, and regulations of the  
8 Commission.

9 (C) PROCEDURES.—The advisory com-  
10 mittee established by subparagraph (A) shall  
11 determine its organization, and prescribe its  
12 practices and procedures for carrying out its  
13 functions under this chapter, the Magnuson-  
14 Stevens Fishery Conservation and Management  
15 Act (16 U.S.C. 1801 et seq.), and the WCPFC  
16 Convention. The advisory committee shall pub-  
17 lish and make available to the public a state-  
18 ment of its organization, practices, and proce-  
19 dures. A majority of the members of the advi-  
20 sory committee shall constitute a quorum.  
21 Meetings of the advisory committee, except  
22 when in executive session, shall be open to the  
23 public, and prior notice of meetings shall be  
24 made public in a timely fashion. and the advi-

1           sory committee shall not be subject to the Fed-  
2           eral Advisory Committee Act (5 U.S.C. App.).

3           (D) PROVISION OF INFORMATION.—The  
4           Secretary and the Secretary of State shall fur-  
5           nish the advisory committee with relevant infor-  
6           mation concerning fisheries and international  
7           fishery agreements.

8           (2) ADMINISTRATIVE MATTERS.—

9           (A) SUPPORT SERVICES.—The Secretary  
10          shall provide to advisory committees in a timely  
11          manner such administrative and technical sup-  
12          port services as are necessary for their effective  
13          functioning.

14          (B) COMPENSATION; STATUS; EX-  
15          PENSES.—Individuals appointed to serve as a  
16          member of an advisory committee—

17               (i) shall serve without pay, but while  
18               away from their homes or regular places of  
19               business in the performance of services for  
20               the advisory committee shall be allowed  
21               travel expenses, including per diem in lieu  
22               of subsistence, in the same manner as per-  
23               sons employed intermittently in the Gov-  
24               ernment service are allowed expenses under

1 section 5703 of title 5, United States  
2 Code; and

3 (ii) shall not be considered Federal  
4 employees by reason of their service as  
5 members of an advisory committee, except  
6 for purposes of injury compensation or tort  
7 claims liability as provided in chapter 81 of  
8 title 5, United States Code, and chapter  
9 171 of title 28, United States Code.

10 (f) MEMORANDUM OF UNDERSTANDING.—For highly  
11 migratory species in the Pacific, the Secretary, in coordi-  
12 nation with the Secretary of State, shall develop a memo-  
13 randum of understanding with the Western Pacific, Pa-  
14 cific, and North Pacific Fishery Management Councils,  
15 that specifies the role of the relevant Council or Councils  
16 with respect to—

17 (1) participation in United States delegations to  
18 international fishery organizations in the Pacific  
19 Ocean, including government-to-government con-  
20 sultations;

21 (2) providing formal recommendations to the  
22 Secretary and the Secretary of State regarding nec-  
23 essary measures for both domestic and foreign ves-  
24 sels fishing for these species;

1           (3) coordinating positions with the United  
2       States delegation for presentation to the appropriate  
3       international fishery organization; and

4           (4) recommending those domestic fishing regu-  
5       lations that are consistent with the actions of the  
6       international fishery organization, for approval and  
7       implementation under the Magnuson-Stevens Fish-  
8       ery Conservation and Management Act (16 U.S.C.  
9       1801 et seq.)

10 **SEC. 504. AUTHORITY AND RESPONSIBILITY OF THE SEC-**  
11 **RETARY OF STATE.**

12       The Secretary of State may—

13           (1) receive and transmit, on behalf of the  
14       United States, reports, requests, recommendations,  
15       proposals, decisions, and other communications of  
16       and to the Commission;

17           (2) in consultation with the Secretary and the  
18       United States Commissioners, approve, disapprove,  
19       object to, or withdraw objections to bylaws and  
20       rules, or amendments thereof, adopted by the  
21       WCPFC Commission, and, with the concurrence of  
22       the Secretary to approve or disapprove the general  
23       annual program of the WCPFC Commission with re-  
24       spect to conservation and management measures

1 and other measures proposed or adopted in accord-  
2 ance with the WCPFC Convention; and

3 (3) act upon, or refer to other appropriate au-  
4 thority, any communication referred to in paragraph  
5 (1).

6 **SEC. 505. RULEMAKING AUTHORITY OF THE SECRETARY OF**  
7 **COMMERCE.**

8 (a) PROMULGATION OF REGULATIONS.—The Sec-  
9 retary, in consultation with the Secretary of State and,  
10 with respect to enforcement measures, the Secretary of the  
11 Department in which the Coast Guard is operating, is au-  
12 thorized to promulgate such regulations as may be nec-  
13 essary to carry out the United States international obliga-  
14 tions under the WCPFC Convention and this title, includ-  
15 ing recommendations and decisions adopted by the Com-  
16 mission. In cases where the Secretary has discretion in  
17 the implementation of one or more measures adopted by  
18 the Commission that would govern fisheries under the au-  
19 thority of a Regional Fishery Management Council, the  
20 Secretary may, to the extent practicable within the imple-  
21 mentation schedule of the WCPFC Convention and any  
22 recommendations and decisions adopted by the Commis-  
23 sion, promulgate such regulations in accordance with the  
24 procedures established by the Magnuson-Stevens Fishery

1 Conservation and Management Act (16 U.S.C. 1801 et  
2 seq.).

3 (b) ADDITIONS TO FISHERY REGIMES AND REGULA-  
4 TIONS.—The Secretary may promulgate regulations appli-  
5 cable to all vessels and persons subject to the jurisdiction  
6 of the United States, including United States flag vessels  
7 wherever they may be operating, on such date as the Sec-  
8 retary shall prescribe.

9 **SEC. 506. ENFORCEMENT.**

10 (a) IN GENERAL.—The Secretary may—

11 (1) administer and enforce this title and any  
12 regulations issued under this title, except to the ex-  
13 tent otherwise provided for in this Act;

14 (2) request and utilize on a reimbursed or non-  
15 reimbursed basis the assistance, services, personnel,  
16 equipment, and facilities of other Federal depart-  
17 ments and agencies in—

18 (A) the administration and enforcement of  
19 this title; and

20 (B) the conduct of scientific, research, and  
21 other programs under this title;

22 (3) conduct fishing operations and biological ex-  
23 periments for purposes of scientific investigation or  
24 other purposes necessary to implement the WCPFC  
25 Convention;

1           (4) collect, utilize, and disclose such informa-  
2           tion as may be necessary to implement the WCPFC  
3           Convention, subject to sections 552 and 552a of title  
4           5, United States Code, and section 402(b) of the  
5           Magnuson-Stevens Fishery Conservation and Man-  
6           agement Act (16 U.S.C. 1881a(b));

7           (5) if recommended by the United States Com-  
8           missioners or proposed by a Council with authority  
9           over the relevant fishery, assess and collect fees, not  
10          to exceed three percent of the ex-vessel value of fish  
11          harvested by vessels of the United States in fisheries  
12          managed pursuant to this title, to recover the actual  
13          costs to the United States of management and en-  
14          forcement under this title, which shall be deposited  
15          as an offsetting collection in, and credited to, the ac-  
16          count providing appropriations to carry out the func-  
17          tions of the Secretary under this title; and

18          (6) issue permits to owners and operators of  
19          United States vessels to fish in the convention area  
20          seaward of the United States Exclusive Economic  
21          Zone, under such terms and conditions as the Sec-  
22          retary may prescribe, and shall remain valid for a  
23          period to be determined by the Secretary.

24          (b) CONSISTENCY WITH OTHER LAWS.—The Sec-  
25          retary shall ensure the consistency, to the extent prac-



1 ticable, of fishery management programs administered  
2 under this Act, the Magnuson-Stevens Fishery Conserva-  
3 tion and Management Act (16 U.S.C. 1801 et seq.), the  
4 Tuna Conventions Act (16 U.S.C. 951 et seq.), the South  
5 Pacific Tuna Act (16 U.S.C. 973 et seq.), section 401 of  
6 Public Law 108–219 (16 U.S.C. 1821 note) (relating to  
7 Pacific albacore tuna), and the Atlantic Tunas Convention  
8 Act (16 U.S.C. 971).

9 (c) ACTIONS BY THE SECRETARY.—The Secretary  
10 shall prevent any person from violating this title in the  
11 same manner, by the same means, and with the same ju-  
12 risdiction, powers, and duties as though all applicable  
13 terms and provisions of the Magnuson-Stevens Fishery  
14 Conservation and Management Act (16 U.S.C. 1857) were  
15 incorporated into and made a part of this title. Any person  
16 that violates any provision of this title is subject to the  
17 penalties and entitled to the privileges and immunities  
18 provided in the Magnuson-Stevens Fishery Conservation  
19 and Management Act in the same manner, by the same  
20 means, and with the same jurisdiction, power, and duties  
21 as though all applicable terms and provisions of that Act  
22 were incorporated into and made a part of this title.

23 (d) CONFIDENTIALITY.—

24 (1) IN GENERAL.—Any information submitted  
25 to the Secretary in compliance with any requirement

1 under this Act shall be confidential and shall not be  
2 disclosed, except—

3 (A) to Federal employees who are respon-  
4 sible for administering, implementing, and en-  
5 forcing this Act;

6 (B) to the Commission, in accordance with  
7 requirements in the Convention and decisions of  
8 the Commission, and, insofar as possible, in ac-  
9 cordance with an agreement with the Commis-  
10 sion that prevents public disclosure of the iden-  
11 tity or business of any person;

12 (C) to State or Marine Fisheries Commis-  
13 sion employees pursuant to an agreement with  
14 the Secretary that prevents public disclosure of  
15 the identity or business or any person;

16 (D) when required by court order; or

17 (E) when the Secretary has obtained writ-  
18 ten authorization from the person submitting  
19 such information to release such information to  
20 persons for reasons not otherwise provided for  
21 in this subsection, and such release does not  
22 violate other requirements of this Act.

23 (2) USE OF INFORMATION.—The Secretary  
24 shall, by regulation, prescribe such procedures as  
25 may be necessary to preserve the confidentiality of

1 information submitted in compliance with any re-  
2 quirement or regulation under this Act, except that  
3 the Secretary may release or make public any such  
4 information in any aggregate or summary form that  
5 does not directly or indirectly disclose the identity or  
6 business of any person. Nothing in this subsection  
7 shall be interpreted or construed to prevent the use  
8 for conservation and management purposes by the  
9 Secretary of any information submitted in compli-  
10 ance with any requirement or regulation under this  
11 Act.

12 **SEC. 507. PROHIBITED ACTS.**

13 (a) IN GENERAL.—It is unlawful for any person—

14 (1) to violate any provision of this title or any  
15 regulation or permit issued pursuant to this title;

16 (2) to use any fishing vessel to engage in fish-  
17 ing after the revocation, or during the period of sus-  
18 pension, or an applicable permit issued pursuant to  
19 this title;

20 (3) to refuse to permit any officer authorized to  
21 enforce the provisions of this title to board a fishing  
22 vessel subject to such person's control for the pur-  
23 poses of conducting any search, investigation, or in-  
24 spection in connection with the enforcement of this  
25 title or any regulation, permit, or the Convention;

1           (4) to forcibly assault, resist, oppose, impede,  
2           intimidate, or interfere with any such authorized of-  
3           ficer in the conduct of any search, investigations, or  
4           inspection in connection with the enforcement of this  
5           title or any regulation, permit, or the Convention;

6           (5) to resist a lawful arrest for any act prohib-  
7           ited by this title;

8           (6) to ship, transport, offer for sale, sell, pur-  
9           chase, import, export, or have custody, control, or  
10          possession of, any fish taken or retained in violation  
11          of this title or any regulation, permit, or agreement  
12          referred to in paragraph (1) or (2);

13          (7) to interfere with, delay, or prevent, by any  
14          means, the apprehension or arrest of another person,  
15          knowing that such other person has committed any  
16          chapter prohibited by this section;

17          (8) to knowingly and willfully submit to the  
18          Secretary false information (including false informa-  
19          tion regarding the capacity and extent to which a  
20          United States fish processor, on an annual basis,  
21          will process a portion of the optimum yield of a fish-  
22          ery that will be harvested by fishery vessels of the  
23          United States), regarding any matter that the Sec-  
24          retary is considering in the course of carrying out  
25          this title;

1           (9) to forcibly assault, resist, oppose, impede,  
2           intimidate, sexually harass, bribe, or interfere with  
3           any observer on a vessel under this title, or any  
4           data collector employed by the National Marine  
5           Fisheries Service or under contract to any person to  
6           carry out responsibilities under this title;

7           (10) to engage in fishing in violation of any  
8           regulation adopted pursuant to section 506(a) of  
9           this title;

10          (11) to ship, transport, purchase, sell, offer for  
11          sale, import, export, or have in custody, possession,  
12          or control any fish taken or retained in violation of  
13          such regulations;

14          (12) to fail to make, keep, or furnish any catch  
15          returns, statistical records, or other reports as are  
16          required by regulations adopted pursuant to this  
17          title to be made, kept, or furnished;

18          (13) to fail to stop a vessel upon being hailed  
19          and instructed to stop by a duly authorized official  
20          of the United States;

21          (14) to import, in violation of any regulation  
22          adopted pursuant to section 506(a) of this title, any  
23          fish in any form of those species subject to regula-  
24          tion pursuant to a recommendation, resolution, or  
25          decision of the Commission, or any tuna in any form

1 not under regulation but under investigation by the  
2 Commission, during the period such fish have been  
3 denied entry in accordance with the provisions of  
4 section 506(a) of this title.

5 (b) ENTRY CERTIFICATION.—In the case of any fish  
6 described in subsection (a) offered for entry into the  
7 United States, the Secretary of Commerce shall require  
8 proof satisfactory to the Secretary that such fish is not  
9 ineligible for such entry under the terms of section 506(a)  
10 of this title.

11 **SEC. 508. COOPERATION IN CARRYING OUT CONVENTION.**

12 (a) FEDERAL AND STATE AGENCIES; PRIVATE INSTI-  
13 TUTIONS AND ORGANIZATIONS.—The Secretary may co-  
14 operate with agencies of the United States government,  
15 any public or private institutions or organizations within  
16 the United States or abroad, and, through the Secretary  
17 of State, the duly authorized officials of the government  
18 of any party to the WCPFC Convention, in carrying out  
19 responsibilities under this title.

20 (b) SCIENTIFIC AND OTHER PROGRAMS; FACILITIES  
21 AND PERSONNEL.—All Federal agencies are authorized,  
22 upon the request of the Secretary, to cooperate in the con-  
23 duct of scientific and other programs and to furnish facili-  
24 ties and personnel for the purpose of assisting the Com-

1 mission in carrying out its duties under the WCPFC Con-  
2 vention.

3 (c) SANCTIONED FISHING OPERATIONS AND BIO-  
4 LOGICAL EXPERIEMENTS.—Nothing in this title, or in the  
5 laws or regulations of any State, prevents the Secretary  
6 or the Commission from—

7 (1) conducting or authorizing the conduct of  
8 fishing operations and biological experiments at any  
9 time for purposes of scientific investigation; or

10 (2) discharging any other duties prescribed by  
11 the WCPFC Convention.

12 (d) STATE JURISDICTION NOT AFFECTED.—Except  
13 as provided in subsection (e) of this section, nothing in  
14 this title shall be construed to diminish or to increase the  
15 jurisdiction of any State in the territorial sea of the  
16 United States.

17 (e) APPLICATION OF REGULATIONS—

18 (1) IN GENERAL.—regulations promulgated  
19 under section 506(a) of this title shall apply within  
20 the boundaries of any State bordering on the Con-  
21 vention area if the Secretary has provided notice to  
22 such State, the State does not request an agency  
23 hearing, and the Secretary determines that the  
24 State—

1 (A) has not, within a reasonable period of  
2 time after the promulgation of regulations pur-  
3 suant to this title, enacted laws or promulgated  
4 regulations that implement the recommenda-  
5 tions of the Commission within the boundaries  
6 of such State; or

7 (B) has enacted laws or promulgated regu-  
8 lations that implement the recommendations of  
9 the commission within the boundaries of such  
10 State that—

11 (i) are less restrictive than the regula-  
12 tions promulgated under section 506(a) of  
13 this title; or

14 (ii) are not effectively enforced.

15 (2) DETERMINATION BY SECRETARY.—The  
16 regulations promulgated pursuant to section 506(a)  
17 of this title shall apply until the Secretary deter-  
18 mines that the State is effectively enforcing within  
19 its boundaries measures that are not less restrictive  
20 than the regulations promulgated under section  
21 506(a) of this title.

22 (3) HEARING.—If a State requests a formal  
23 agency hearing, the Secretary shall not apply the  
24 regulations promulgated pursuant section 506(a) of  
25 this title within that State's boundaries unless the



1 hearing record supports a determination under para-  
2 graph (1)(A) or (B).

3 (f) REVIEW OF STATE LAWS AND REGULATIONS.—

4 To ensure that the purposes of subsection (e) are carried  
5 out, the Secretary shall undertake a continuing review of  
6 the laws and regulations of all States to which subsection  
7 (e) applies or may apply and the extent to which such laws  
8 and regulations are enforced.

9 **SEC. 509. TERRITORIAL PARTICIPATION.**

10 The Secretary of State shall ensure participation in  
11 the Commission and its subsidiary bodies by American  
12 Samoa, Guam, and the Northern Mariana Islands to the  
13 same extent provided to the territories of other nations.

14 **SEC. 510. EXCLUSIVE ECONOMIC ZONE NOTIFICATION.**

15 Masters of commercial fishing vessels of nations fish-  
16 ing for species under the management authority of the  
17 Western and Central Pacific Fisheries Convention that do  
18 not carry vessel monitoring systems capable of commu-  
19 nicating with United States enforcement authorities shall,  
20 prior to, or as soon as reasonably possible after, entering  
21 and transiting the Exclusive Economic Zone seaward of  
22 Hawaii and of the Commonwealths, territories, and pos-  
23 sessions of the United States in the Pacific Ocean area—

24 (1) notify the United States Coast Guard or the  
25 National Marine Fisheries Service Office of Law En-

1        enforcement in the appropriate region of the name,  
2        flag state, location, route, and destination of the ves-  
3        sel and of the circumstances under which it will  
4        enter United States waters;

5            (2) ensure that all fishing gear on board the  
6        vessel is stowed below deck or otherwise removed  
7        from the place where it is normally used for fishing  
8        and placed where it is not readily available for fish-  
9        ing; and

10           (3) where requested by an enforcement officer,  
11        proceed to a specified location so that a vessel in-  
12        spection can be conducted.

13    **SEC. 511. AUTHORIZATION OF APPROPRIATIONS.**

14        There are authorized to be appropriated to the Sec-  
15        retary of Commerce such sums as may be necessary to  
16        carry out this title and to pay the United States' contribu-  
17        tion to the Commission under section 5 of part III of the  
18        WCPFC Convention.

19        **TITLE VI—PACIFIC WHITING**

20    **SEC. 601. SHORT TITLE.**

21        This title may be cited as the “Pacific Whiting Act  
22        of 2006”.

23    **SEC. 602. DEFINITIONS.**

24        In this title:

1           (1) ADVISORY PANEL.—The term “advisory  
2       panel” means the Advisory Panel on Pacific Hake/  
3       Whiting established by the Agreement.

4           (2) AGREEMENT.—The term “Agreement”  
5       means the Agreement between the Government of  
6       the United States and the Government of Canada on  
7       Pacific Hake/Whiting, signed at Seattle, Wash-  
8       ington, on November 21, 2003.

9           (3) CATCH.—The term “catch” means all fish-  
10      ery removals from the offshore whiting resource, in-  
11      cluding landings, discards, and bycatch in other fish-  
12      eries.

13          (4) JOINT MANAGEMENT COMMITTEE.—The  
14      term “joint management committee” means the  
15      joint management committee established by the  
16      Agreement.

17          (5) JOINT TECHNICAL COMMITTEE.—The term  
18      “joint technical committee” means the joint tech-  
19      nical committee established by the Agreement.

20          (6) OFFSHORE WHITING RESOURCE.—The term  
21      “offshore whiting resource” means the  
22      transboundary stock of *Merluccius productus* that is  
23      located in the offshore waters of the United States  
24      and Canada except in Puget Sound and the Strait  
25      of Georgia.

1 (7) SCIENTIFIC REVIEW GROUP.—The term  
2 “scientific review group” means the scientific review  
3 group established by the Agreement.

4 (8) SECRETARY.—The term “Secretary” means  
5 the Secretary of Commerce.

6 (9) UNITED STATES SECTION.—The term  
7 “United States Section” means the United States  
8 representatives on the joint management committee.

9 **SEC. 603. UNITED STATES REPRESENTATION ON JOINT**  
10 **MANAGEMENT COMMITTEE.**

11 (a) REPRESENTATIVES.—

12 (1) IN GENERAL.—The Secretary, in consulta-  
13 tion with the Secretary of State, shall appoint 4 in-  
14 dividuals to represent the United States as the  
15 United States Section on the joint management com-  
16 mittee. In making the appointments, the Secretary  
17 shall select representatives from among individuals  
18 who are knowledgeable or experienced concerning  
19 the offshore whiting resource. Of these—

20 (A) 1 shall be an official of the National  
21 Oceanic and Atmospheric Administration;

22 (B) 1 shall be a member of the Pacific  
23 Fishery Management Council, appointed with  
24 consideration given to any recommendation pro-  
25 vided by that Council;

1 (C) 1 shall be appointed from a list sub-  
2 mitted by the treaty Indian tribes with treaty  
3 fishing rights to the offshore whiting resource;  
4 and

5 (D) 1 shall be appointed from the commer-  
6 cial sector of the whiting fishing industry con-  
7 cerned with the offshore whiting resource.

8 (2) TERM OF OFFICE.—Each representative ap-  
9 pointed under paragraph (1) shall be appointed for  
10 a term not to exceed 4 years, except that, of the ini-  
11 tial appointments, 2 representatives shall be ap-  
12 pointed for terms of 2 years. Any individual ap-  
13 pointed to fill a vacancy occurring prior to the expi-  
14 ration of the term of office of that individual's pred-  
15 ecessor shall be appointed for the remainder of that  
16 term. A representative may be appointed for a term  
17 of less than 4 years if such term is necessary to en-  
18 sure that the term of office of not more than 2 rep-  
19 resentatives will expire in any single year. An indi-  
20 vidual appointed to serve as a representative is eligi-  
21 ble for reappointment.

22 (3) CHAIR.—Unless otherwise agreed by all of  
23 the 4 representatives, the chair shall rotate annually  
24 among the 4 members, with the order of rotation de-  
25 termined by lot at the first meeting.

1 (b) ALTERNATE REPRESENTATIVES.—The Secretary,  
2 in consultation with the Secretary of State, may designate  
3 alternate representatives of the United States to serve on  
4 the joint management committee. An alternative rep-  
5 resentative may exercise, at any meeting of the committee,  
6 all the powers and duties of a representative in the ab-  
7 sence of a duly designated representative for whatever rea-  
8 son.

9 **SEC. 604. UNITED STATES REPRESENTATION ON THE SCI-**  
10 **ENTIFIC REVIEW GROUP.**

11 (a) IN GENERAL.—The Secretary, in consultation  
12 with the Secretary of State, shall appoint no more than  
13 2 scientific experts to serve on the scientific review group.  
14 An individual shall not be eligible to serve on the scientific  
15 review group while serving on the joint technical com-  
16 mittee.

17 (b) TERM.—An individual appointed under sub-  
18 section (a) shall be appointed for a term of not to exceed  
19 4 years, but shall be eligible for reappointment. An indi-  
20 vidual appointed to fill a vacancy occurring prior to the  
21 expiration of a term of office of that individual's prede-  
22 cessor shall be appointed to serve for the remainder of that  
23 term.

24 (c) JOINT APPOINTMENTS.—In addition to individ-  
25 uals appointed under subsection (a), the Secretary, jointly

1 with the Government of Canada, may appoint to the sci-  
2 entific review group, from a list of names provided by the  
3 advisory panel —

4 (1) up to 2 independent members of the sci-  
5 entific review group; and

6 (2) 2 public advisors.

7 **SEC. 605. UNITED STATES REPRESENTATION ON JOINT**  
8 **TECHNICAL COMMITTEE.**

9 (a) SCIENTIFIC EXPERTS.—

10 (1) IN GENERAL.—The Secretary, in consulta-  
11 tion with the Secretary of State, shall appoint at  
12 least 6 but not more than 12 individuals to serve as  
13 scientific experts on the joint technical committee, at  
14 least 1 of whom shall be an official of the National  
15 Oceanic and Atmospheric Administration.

16 (2) TERM OF OFFICE.—An individual appointed  
17 under paragraph (1) shall be appointed for a term  
18 of not to exceed 4 years, but shall be eligible for re-  
19 appointment. An individual appointed to fill a va-  
20 cancy occurring prior to the expiration of the term  
21 of office of that individual's predecessor shall be ap-  
22 pointed for the remainder of that term.

23 (b) INDEPENDENT MEMBER.—In addition to individ-  
24 uals appointed under subsection (a), the Secretary, jointly  
25 with the Government of Canada, shall appoint 1 inde-

1 pendent member to the joint technical committee selected  
2 from a list of names provided by the advisory panel.

3 **SEC. 606. UNITED STATES REPRESENTATION ON ADVISORY**  
4 **PANEL.**

5 (a) IN GENERAL.—

6 (1) APPOINTMENT.—The Secretary, in con-  
7 sultation with the Secretary of State, shall appoint  
8 at least 6 but not more than 12 individuals to serve  
9 as members of the advisory panel, selected from  
10 among individuals who are—

11 (A) knowledgeable or experienced in the  
12 harvesting, processing, marketing, management,  
13 conservation, or research of the offshore whiting  
14 resource; and

15 (B) not employees of the United States.

16 (2) TERM OF OFFICE.—An individual appointed  
17 under paragraph (1) shall be appointed for a term  
18 of not to exceed 4 years, but shall be eligible for re-  
19 appointment. An individual appointed to fill a va-  
20 cancy occurring prior to the expiration of the term  
21 of office of that individual's predecessor shall be ap-  
22 pointed for the remainder of that term.

23 **SEC. 607. RESPONSIBILITIES OF THE SECRETARY.**

24 (a) IN GENERAL.—The Secretary is responsible for  
25 carrying out the Agreement and this title, including the



1 authority, to be exercised in consultation with the Sec-  
2 retary of State, to accept or reject, on behalf of the United  
3 States, recommendations made by the joint management  
4 committee.

5 (b) REGULATIONS; COOPERATION WITH CANADIAN  
6 OFFICIALS.—In exercising responsibilities under this title,  
7 the Secretary—

8 (1) may promulgate such regulations as may be  
9 necessary to carry out the purposes and objectives of  
10 the Agreement and this title; and

11 (2) with the concurrence of the Secretary of  
12 State, may cooperate with officials of the Canadian  
13 Government duly authorized to carry out the Agree-  
14 ment.

15 **SEC. 608. RULEMAKING.**

16 (a) APPLICATION WITH MAGNUSON-STEVENSON ACT.—  
17 The Secretary shall establish the United States catch level  
18 for Pacific whiting according to the standards and proce-  
19 dures of the Agreement and this title rather than under  
20 the standards and procedures of the Magnuson-Stevens  
21 Fishery Conservation and Management Act (16 U.S.C.  
22 1801 et seq.), except to the extent necessary to address  
23 the rebuilding needs of other species. Except for estab-  
24 lishing the catch level, all other aspects of Pacific whiting  
25 management shall be—

1           (1) subject to the Magnuson-Stevens Fishery  
2       Conservation and Management Act; and

3           (2) consistent with this title.

4       (b) JOINT MANAGEMENT COMMITTEE REC-  
5 OMMENDATIONS.—For any year in which both parties to  
6 the Agreement approve recommendations made by the  
7 joint management committee with respect to the catch  
8 level, the Secretary shall implement the approved rec-  
9 ommendations. Any regulation promulgated by the Sec-  
10 retary to implement any such recommendation shall apply,  
11 as necessary, to all persons and all vessels subject to the  
12 jurisdiction of the United States wherever located.

13       (c) YEARS WITH NO APPROVED CATCH REC-  
14 OMMENDATIONS.—If the parties to the Agreement do not  
15 approve the joint management committee's recommenda-  
16 tion with respect to the catch level for any year, the Sec-  
17 retary shall establish the total allowable catch for Pacific  
18 whiting for the United States catch. In establishing the  
19 total allowable catch under this subsection, the Secretary  
20 shall—

21           (1) take into account any recommendations  
22       from the Pacific Fishery Management Council, the  
23       joint management committee, the joint technical  
24       committee, the scientific review group, and the advi-  
25       sory panel;

1           (2) base the total allowable catch on the best  
2       scientific information available;

3           (3) use the default harvest rate set out in para-  
4       graph 1 of Article III of the Agreement unless the  
5       Secretary determines that the scientific evidence  
6       demonstrates that a different rate is necessary to  
7       sustain the offshore whiting resource; and

8           (4) establish the United State's share of the  
9       total allowable catch based on paragraph 2 of Article  
10      III of the Agreement and make any adjustments  
11      necessary under section 5 of Article II of the Agree-  
12      ment.

13   **SEC. 609. ADMINISTRATIVE MATTERS.**

14      (a) EMPLOYMENT STATUS.—Individuals serving as  
15   such Commissioners, other than officers or employees of  
16   the United States Government, shall be considered to be  
17   Federal employees while performing such service, only for  
18   purposes of—

19           (1) injury compensation under chapter 81 of  
20      title 5, United States Code;

21           (2) tort claims liability as provided under chap-  
22      ter 171 of title 28 United States Code;

23           (3) requirements concerning ethics, conflicts of  
24      interest, and corruption as provided under title 18,  
25      United States Code; and

1 (4) any other criminal or civil statute or regula-  
2 tion governing the conduct of Federal employees.

3 (b) COMPENSATION.—

4 (1) IN GENERAL.—Except as provided in para-  
5 graph (2), an individual appointed under this title  
6 shall receive no compensation for the individual's  
7 service as a representative, alternate representative,  
8 scientific expert, or advisory panel member under  
9 this title.

10 (2) SCIENTIFIC REVIEW GROUP.—Notwith-  
11 standing paragraph (1), the Secretary may employ  
12 and fix the compensation of an individual appointed  
13 under section 604(a) to serve as a scientific expert  
14 on the scientific review group who is not employed  
15 by the United States government, a State govern-  
16 ment, or an Indian tribal government in accordance  
17 with section 3109 of title 5, United States Code.

18 (c) TRAVEL EXPENSES.—Except as provided in sub-  
19 section (d), the Secretary shall pay the necessary travel  
20 expenses of individuals appointed under this title in ac-  
21 cordance with the Federal Travel Regulations and sections  
22 5701, 5702, 5704 through 5708, and 5731 of title 5,  
23 United States Code.

24 (d) JOINT APPOINTEES.—With respect to the 2 inde-  
25 pendent members of the scientific review group and the

1 2 public advisors to the scientific review group jointly ap-  
2 pointed under section 604(c), and the 1 independent mem-  
3 ber to the joint technical committee jointly appointed  
4 under section 605(b), the Secretary may pay up to 50 per-  
5 cent of—

- 6 (1) any compensation paid to such individuals;
- 7 and
- 8 (2) the necessary travel expenses of such indi-  
9 viduals.

10 **SEC. 610. ENFORCEMENT.**

11 (a) IN GENERAL.—The Secretary may—

12 (1) administer and enforce this title and any  
13 regulations issued under this title;

14 (2) request and utilize on a reimbursed or non-  
15 reimbursed basis the assistance, services, personnel,  
16 equipment, and facilities of other Federal depart-  
17 ments and agencies in the administration and en-  
18 forcement of this title; and

19 (3) collect, utilize, and disclose such informa-  
20 tion as may be necessary to implement the Agree-  
21 ment and this title, subject to sections 552 and 552a  
22 of title 5, United States Code.

23 (b) PROHIBITED ACTS.—It is unlawful for any per-  
24 son to violate any provision of this title or the regulations  
25 promulgated under this title.

1       (c) ACTIONS BY THE SECRETARY.—The Secretary  
2 shall prevent any person from violating this title in the  
3 same manner, by the same means, and with the same ju-  
4 risdiction, powers, and duties as though all applicable  
5 terms and provisions of the Magnuson-Stevens Fishery  
6 Conservation and Management Act (16 U.S.C. 1857) were  
7 incorporated into and made a part of this title. Any person  
8 that violates any provision of this title is subject to the  
9 penalties and entitled to the privileges and immunities  
10 provided in the Magnuson-Stevens Fishery Conservation  
11 and Management Act in the same manner, by the same  
12 means, and with the same jurisdiction, power, and duties  
13 as though all applicable terms and provisions of that Act  
14 were incorporated into and made a part of this title.

15       (d) PENALTIES.—This title shall be enforced by the  
16 Secretary as if a violation of this title or of any regulation  
17 promulgated by the Secretary under this title were a viola-  
18 tion of section 307 of the Magnuson-Stevens Fishery Con-  
19 servation and Management Act (16 U.S.C. 1857).

20 **SEC. 611. AUTHORIZATION OF APPROPRIATIONS.**

21       There are authorized to be appropriated to the Sec-  
22 retary such sums as may be necessary to carry out the  
23 obligations of the United States under the Agreement and  
24 this title.

○